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RECORDS OF THE UNITED STATES

NUERNBERG WAR CRIMES TRIALS

UNITED STATES OF AMERICA v. CARL KRAUCH ET AL. (CASE VI)

AUGUST 14, 1947-JULY 30, 1948

Roll 3

Transcript Volumes (English Version)

Volumes 4-6, p. 1,000-2,109

Sept. 19-Oct. 14, 1947



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INTRODUCTION

On the 113 rolls of this microfilm publication are reproduced the records of Case VI, *United States of America v. Carl Krauch et al.* (I. G. Farben Case), 1 of the 12 trials of war criminals conducted by the U.S. Government from 1946 to 1949 at Nuernberg subsequent to the International Military Tribunal (IMT) held in the same city. These records consist of German- and English-language versions of official transcripts of court proceedings, prosecution and defense briefs and statements, and defendants' final pleas as well as prosecution and defense exhibits and document books in one language or the other. Also included are minute books, the official court file, order and judgment books, clemency petitions, and finding aids to the documents.

The transcripts of this trial, assembled in 2 sets of 43 bound volumes (1 set in German and 1 in English), are the recorded daily trial proceedings. Prosecution statements and briefs are also in both languages but unbound, as are the final pleas of the defendants delivered by counsel or defendants and submitted by the attorneys to the court. Unbound prosecution exhibits, numbered 1-2270 and 2300-2354, are essentially those documents from various Nuernberg record series, particularly the NI (Nuernberg Industrialist) Series, and other sources offered in evidence by the prosecution in this case. Defense exhibits, also unbound, are predominantly affidavits by various persons. They are arranged by name of defendant and thereunder numerically, along with two groups of exhibits submitted in the general interest of all defendants. Both prosecution and defense document books consist of full or partial translations of exhibits into English. Loosely bound in folders, they provide an indication of the order in which the exhibits were presented before the tribunal.

Minute books, in two bound volumes, summarize the transcripts. The official court file, in nine bound volumes, includes the progress docket, the indictment, and amended indictment and the service thereof; applications for and appointments of defense counsel and defense witnesses and prosecution comments thereto; defendants' application for documents; motions and reports; uniform rules of procedures; and appendixes. The order and judgment books, in two bound volumes, represent the signed orders, judgments, and opinions of the tribunal as well as sentences and commitment papers. Defendants' clemency petitions, in three bound volumes, were directed to the military governor, the Judge Advocate General, and the U.S. District Court for the District of Columbia. The finding aids summarize transcripts, exhibits, and the official court file.

Case VI was heard by U.S. Military Tribunal VI from August 14, 1947, to July 30, 1948. Along with records of other Nuernberg

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and Far East war crimes trials, the records of this case are part of the National Archives Collection of World War II War Crimes Records, Record Group 238.

The I. G. Farben Case was 1 of 12 separate proceedings held before several U.S. Military Tribunals at Nuernberg in the U.S. Zone of Occupation in Germany against officials or citizens of the Third Reich, as follows:

<u>Case No.</u>	<u>United States v.</u>	<u>Popular Name</u>	<u>No. of Defendants</u>
1	<i>Karl Brandt et al.</i>	Medical Case	23
2	<i>Erhard Milch</i>	Milch Case (Luftwaffe)	1
3	<i>Josef Altstoetter et al.</i>	Justice Case	16
4	<i>Oswald Pohl et al.</i>	Pohl Case (SS)	18
5	<i>Friedrich Flick et al.</i>	Flick Case (Industrialist)	6
6	<i>Carl Krauch et al.</i>	I. G. Farben Case (Industrialist)	24
7	<i>Wilhelm List et al.</i>	Hostage Case	12
8	<i>Ulrich Greifelt et al.</i>	RuSHA Case (SS)	14
9	<i>Otto Ohlendorf et al.</i>	Einsatzgruppen Case (SS)	24
10	<i>Alfried Krupp et al.</i>	Krupp Case (Industrialist)	12
11	<i>Ernst von Weissacker et al.</i>	Ministries Case	21
12	<i>Wilhelm von Leeb et al.</i>	High Command Case	14

Authority for the proceedings of the IMT against the major Nazi war criminals derived from the Declaration on German Atrocities (Moscow Declaration) released November 1, 1943; Executive Order 9547 of May 2, 1945; the London Agreement of August 8, 1945; the Berlin Protocol of October 6, 1945; and the IMT Charter.

Authority for the 12 subsequent cases stemmed mainly from Control Council Law 10 of December 20, 1945, and was reinforced by Executive Order 9679 of January 16, 1946; U.S. Military Government Ordinances 7 and 11 of October 18, 1946, and February 17, 1947, respectively; and U.S. Forces, European Theater General Order 301 of October 24, 1946. Procedures applied by U.S. Military Tribunals in the subsequent proceedings were patterned after those of the IMT and further developed in the 12 cases, which required over 1,200 days of court sessions and generated more than 330,000 transcript pages.

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Formation of the I. G. Farben Combine was a stage in the evolution of the German chemical industry, which for many years led the world in the development, production, and marketing of organic dyestuffs, pharmaceuticals, and synthetic chemicals. To control the excesses of competition, six of the largest chemical firms, including the Badische Anilin & Soda Fabrik, combined to form the Interessengemeinschaft (Combine of Interests, or Trust) of the German Dyestuffs Industry in 1904 and agreed to pool technological and financial resources and markets. The two remaining chemical firms of note entered the combine in 1916. In 1925 the Badische Anilin & Soda Fabrik, largest of the firms and already the majority shareholder in two of the other seven companies, led in reorganizing the industry to meet the changed circumstances of competition in the post-World War markets by changing its name to the I. G. Farbenindustrie Aktiengesellschaft, moving its home office from Ludwigshafen to Frankfurt, and merging with the remaining five firms.

Farben maintained its influence over both the domestic and foreign markets for chemical products. In the first instance the German explosives industry, dependent on Farben for synthetically produced nitrates, soon became subsidiaries of Farben. Of particular interest to the prosecution in this case were the various agreements Farben made with American companies for the exchange of information and patents and the licensing of chemical discoveries for foreign production. Among the trading companies organized to facilitate these agreements was the General Anilin and Film Corp., which specialized in photographic processes. The prosecution charged that Farben used these connections to retard the "Arsenal of Democracy" by passing on information received to the German Government and providing nothing in return, contrary to the spirit and letter of the agreements.

Farben was governed by an Aufsichtsrat (Supervisory Board of Directors) and a Vorstand (Managing Board of Directors). The Aufsichtsrat, responsible for the general direction of the firm, was chaired by defendant Krauch from 1940. The Vorstand actually controlled the day-to-day business and operations of Farben. Defendant Schmitz became chairman of the Vorstand in 1935, and 18 of the other 22 original defendants were members of the Vorstand and its component committees.

Transcripts of the I. G. Farben Case include the indictment of the following 24 persons:

Otto Ambros: Member of the Vorstand of Farben; Chief of Chemical Warfare Committee of the Ministry of Armaments and War Production; production chief for Buna and poison gas; manager of Auschwitz, Schkopau, Ludwigshafen, Oppau, Gendorf, Dyhernfurth, and Falkenhagen plants; and Wehrwirtschaftsfuehrer.

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Max Brueggemann: Member and Secretary of the Vorstand of Farben; member of the legal committee; Deputy Plant Leader of the Leverkusen Plant; Deputy Chief of the Sales Combine for Pharmaceuticals; and director of the legal, patent, and personnel departments of the Works Combine, Lower Rhine.

Ernst Buergin: Member of the Vorstand of Farben; Chief of Works Combine, Central Germany; Plant Leader at the Bitterfeld and Wolfen-Farben plants; and production chief for light metals, dyestuffs, organic intermediates, plastics, and nitrogen at these plants.

Heinrich Bueteffisch: Member of the Vorstand of Farben; manager of Leuna plants; production chief for gasoline, methanol, and chlorine electrolysis production at Auschwitz and Moosbierbaum; Wehrwirtschaftsfuehrer; member of the Himmler Freundeskreis (circle of friends of Himmler); and SS Obersturmbannfuehrer (Lieutenant Colonel).

Walter Duerrfeld: Director and construction manager of the Auschwitz plant of Farben, director and construction manager of the Monowitz Concentration Camp, and Chief Engineer at the Leuna plant.

Fritz Gajewski: Member of the Central Committee of the Vorstand of Farben, Chief of Sparte III (Division III) in charge of production of photographic materials and artificial fibers, manager of "Agfa" plants, and Wehrwirtschaftsfuehrer.

Heinrich Gattineau: Chief of the Political-Economic Policy Department, "WIPO," of Farben's Berlin N.W. 7 office; member of Southeast Europe Committee; and director of A.G. Dynamit Nobel, Pressburg, Czechoslovakia.

Paul Haeffliger: Member of the Vorstand of Farben; member of the Commercial Committee; and Chief, Metals Departments, Sales Combine for Chemicals.

Erich von der Heyde: Member of the Political-Economic Policy Department of Farben's Berlin N.W. 7 office, Deputy to the Chief of Intelligence Agents, SS Hauptsturmfuehrer, and member of the WI-RUE-AMT (Military Economics and Armaments Office) of the Oberkommando der Wehrmacht (OKW) (High Command of the Armed Forces).

Heinrich Hoerlein: Member of the Central Committee of the Vorstand of Farben; chief of chemical research and development of vaccines, sera, pharmaceuticals, and poison gas; and manager of the Elberfeld Plant.

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Max Ilgner: Member of the Vorstand of Farben; Chief of Farben's Berlin N.W. 7 office directing intelligence, espionage, and propaganda activities; member of the Commercial Committee; and Wehrwirtschaftsfuehrer.

Friedrich Jaehne: Member of the Vorstand of Farben; chief engineer in charge of construction and physical plant development; Chairman of the Engineering Committee; and Deputy Chief, Works Combine, Main Valley.

August von Knieriem: Member of the Central Committee of the Vorstand of Farben; Chief Counsel of Farben; and Chairman, Legal and Patent Committees.

Carl Krauch: Chairman of the Aufsichtsrat of Farben and Generalbevollmaechtigter fuer Sonderfragen der Chemischen Erzeugung (General Plenipotentiary for Special Questions of Chemical Production) on Goering's staff in the Office of the 4-Year Plan.

Hans Kuehne: Member of the Vorstand of Farben; Chief of the Works Combine, Lower Rhine; Plant Leader at Leverkusen, Elberfeld, Uerdingen, and Dormagen plants; production chief for inorganics, organic intermediates, dyestuffs, and pharmaceuticals at these plants; and Chief of the Inorganics Committee.

Hans Kugler: Member of the Commercial Committee of Farben; Chief of the Sales Department Dyestuffs for Hungary, Rumania, Yugoslavia, Greece, Bulgaria, Turkey, Czechoslovakia, and Austria; and Public Commissar for the Falkenau and Aussig plants in Czechoslovakia.

Carl Lautenschlaeger: Member of the Vorstand of Farben; Chief of Works Combine, Main Valley; Plant Leader at the Hoechst, Griesheim, Mainkur, Gersthofen, Offenbach, Eystrup, Marburg, and Neuhausen plants; and production chief for nitrogen, inorganics, organic intermediates, solvents and plastics, dyestuffs, and pharmaceuticals at these plants.

Wilhelm Mann: Member of the Vorstand of Farben, member of the Commercial Committee, Chief of the Sales Combine for Pharmaceuticals, and member of the SA.

Fritz ter Meer: Member of the Central Committee of the Vorstand of Farben; Chief of the Technical Committee of the Vorstand that planned and directed all of Farben's production; Chief of Sparte II in charge of production of Buna, poison gas, dyestuffs, chemicals, metals, and pharmaceuticals; and Wehrwirtschaftsfuehrer.

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Heinrich Oster: Member of the Vorstand of Farben, member of the Commercial Committee, and manager of the Nitrogen Syndicate.

Hermann Schmitz: Chairman of the Vorstand of Farben, member of the Reichstag, and Director of the Bank of International Settlements.

Christian Schneider: Member of the Central Committee of the Vorstand of Farben; Chief of Sparte I in charge of production of nitrogen, gasoline, diesel and lubricating oils, methanol, and organic chemicals; Chief of Central Personnel Department, directing the treatment of labor at Farben plants; Wehrwirtschaftsfuehrer; Hauptabwehrbeauftragter (Chief of Intelligence Agents); Hauptbetriebsfuehrer (Chief of Plant Leaders); and supporting member of the Schutzstaffeln (SS) of the NSDAP.

Georg von Schnitzler: Member of the Central Committee of the Vorstand of Farben, Chief of the Commercial Committee of the Vorstand that planned and directed Farben's domestic and foreign sales and commercial activities, Wehrwirtschaftsfuehrer (Military Economy Leader), and Hauptsturmfaehrer (Captain) in the Sturmabteilungen (SA) of the Nazi Party (NSDAP).

Carl Wurster: Member of the Vorstand of Farben; Chief of the Works Combine, Upper Rhine; Plant Leader at Ludwigshafen and Oppau plants; production chief for inorganic chemicals; and Wehrwirtschaftsfuehrer.

The prosecution charged these 24 individual staff members of the firm with various crimes, including the planning of aggressive war through an alliance with the Nazi Party and synchronization of Farben's activities with the military planning of the German High Command by participation in the preparation of the 4-Year Plan, directing German economic mobilization for war, and aiding in equipping the Nazi military machines.¹ The defendants also were charged with carrying out espionage and intelligence activities in foreign countries and profiting from these activities. They participated in plunder and spoliation of Austria, Czechoslovakia, Poland, Norway, France, and the Soviet Union as part of a systematic economic exploitation of these countries. The prosecution also charged mass murder and the enslavement of many thousands of persons particularly in Farben plants at the Auschwitz and Monowitz concentration camps and the use of poison gas manufactured by the firm in the extermination

¹The trial of defendant Brueggemann was discontinued early during the proceedings because he was unable to stand trial on account of ill health.

of millions of men, women, and children. Medical experiments were conducted by Farben on enslaved persons without their consent to test the effects of deadly gases, vaccines, and related products. The defendants were charged, furthermore, with a common plan and conspiracy to commit crimes against the peace, war crimes, and crimes against humanity. Three defendants were accused of membership in a criminal organization, the SS. All of these charges were set forth in an indictment consisting of five counts.

The defense objected to the charges by claiming that regulations were so stringent and far reaching in Nazi Germany that private individuals had to cooperate or face punishment, including death. The defense claimed further that many of the individual documents produced by the prosecution were originally intended as "window dressing" or "howling with the wolves" in order to avoid such punishment.

The tribunal agreed with the defense in its judgment that none of the defendants were guilty of Count I, planning, preparation, initiation, and waging wars of aggression; or Count V, common plans and conspiracy to commit crimes against the peace and humanity and war crimes.

The tribunal also dismissed particulars of Count II concerning plunder and exploitation against Austria and Czechoslovakia. Eight defendants (Schmitz, von Schnitzler, ter Meer, Buergin, Haeffliger, Ilgner, Oster, and Kugler) were found guilty on the remainder of Count II, while 15 were acquitted. On Count III (slavery and mass murder), Ambros, Bueteffisch, Duerrfeld, Krauch, and ter Meer were judged guilty. Schneider, Bueteffisch, and von der Heyde also were charged with Count IV, membership in a criminal organization, but were acquitted.

The tribunal acquitted Gajewski, Gattineau, von der Heyde, Hoerlein, von Knieriem, Kuehne, Lautenschlaeger, Mann, Schneider, and Wurster. The remaining 13 defendants were given prison terms as follows:

<u>Name</u>	<u>Length of Prison Term (years)</u>
Ambros	8
Buergin	2
Bueteffisch	6
Duerrfeld	8
Haeffliger	2
Ilgner	3
Jaehne	1 1/2
Krauch	6
Kugler	1 1/2
Oster	2
Schmitz	4
von Schnitzler	5
ter Meer	7

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All defendants were credited with time already spent in custody.

In addition to the indictments, judgments, and sentences, the transcripts also contain the arraignment and plea of each defendant (all pleaded not guilty) and opening statements of both defense and prosecution.

The English-language transcript volumes are arranged numerically, 1-43, and the pagination is continuous, 1-15834 (page 4710 is followed by pages 4710(1)-4710(285)). The German-language transcript volumes are numbered 1a-43a and paginated 1-16224 (14a and 15a are in one volume). The letters at the top of each page indicate morning, afternoon, or evening sessions. The letter "C" designates commission hearings (to save court time and to avoid assembling hundreds of witnesses at Nuernberg, in most of the cases one or more commissions took testimony and received documentary evidence for consideration by the tribunals). Two commission hearings are included in the transcripts: that for February 7, 1948, is on pages 6957-6979 of volume 20 in the English-language transcript, while that for May 7, 1948, is on pages 14775a-14776 of volume 40a in the German-language transcript. In addition, the prosecution made one motion of its own and, with the defense, six joint motions to correct the English-language transcripts. Lists of the types of errors, their location, and the prescribed corrections are in several volumes of the transcripts as follows:

- First Motion of the Prosecution, volume 1
- First Joint Motion, volume 3
- Second Joint Motion, volume 14
- Third Joint Motion, volume 24
- Fourth Joint Motion, volume 29
- Fifth Joint Motion, volume 34
- Sixth Joint Motion, volume 40

The prosecution offered 2,325 prosecution exhibits numbered 1-2270 and 2300-2354. Missing numbers were not assigned due to the difficulties of introducing exhibits before the commission and the tribunal simultaneously. Exhibits 1835-1838 were loaned to an agency of the Department of Justice for use in a separate matter, and apparently No. 1835 was never returned. Exhibits drew on a variety of sources, such as reports and directives as well as affidavits and interrogations of various individuals. Maps and photographs depicting events and places mentioned in the exhibits are among the prosecution resources, as are publications, correspondence, and many other types of records.

The first item in the arrangement of prosecution exhibits is usually a certificate giving the document number, a short description of the exhibits, and a statement on the location of the original document or copy of the exhibit. The certificate is followed by the actual prosecution exhibit (most are photostats,

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but a few are mimeographed articles with an occasional carbon of the original). The few original documents are often affidavits of witnesses or defendants, but also ledgers and correspondence, such as:

<u>Exhibit No.</u>	<u>Doc. No.</u>	<u>Exhibit No.</u>	<u>Doc. No.</u>
322	NI 5140	1558	NI 11411
918	NI 6647	1691	NI 12511
1294	NI 14434	1833	NI 12789
1422	NI 11086	1886	NI 14228
1480	NI 11092	2313	NI 13566
1811	NI 11144		

In rare cases an exhibit is followed by a translation; in others there is no certificate. Several of the exhibits are of poor legibility and a few pages are illegible.

Other than affidavits, the defense exhibits consist of newspaper clippings, reports, personnel records, Reichgesetzblatt excerpts, photographs, and other items. The 4,257 exhibits for the 23 defendants are arranged by name of defendant and thereunder by exhibit number. Individual exhibits are preceded by a certificate wherever available. Two sets of exhibits for all the defendants are included.

Translations in each of the prosecution document books are preceded by an index listing document numbers, biased descriptions, and page numbers of each translation. These indexes often indicate the order in which the prosecution exhibits were presented in court. Defense document books are similarly arranged. Each book is preceded by an index giving document number, description, and page number for every exhibit. Corresponding exhibit numbers generally are not provided. There are several unindexed supplements to numbered document books. Defense statements, briefs, pleas, and prosecution briefs are arranged alphabetically by defendant's surname. Pagination is consecutive, yet there are many pages where an "a" or "b" is added to the numeral.

At the beginning of roll 1 key documents are filmed from which Tribunal VI derived its jurisdiction: the Moscow Declaration, U.S. Executive Orders 9547 and 9679, the London Agreement, the Berlin Protocol, the IMT Charter, Control Council Law 10, U.S. Military Government Ordinances 7 and 11, and U.S. Forces, European Theater General Order 301. Following these documents of authorization is a list of the names and functions of members of the tribunal and counsels. These are followed by the transcript covers giving such information as name and number of case, volume numbers, language, page numbers, and inclusive dates. They are followed by the minute book, consisting of summaries of the daily proceedings, thus providing an additional finding aid for the transcripts. Exhibits are listed in an index that notes the

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type, number, and name of exhibit; corresponding document book, number, and page; a short description of the exhibit; and the date when it was offered in court. The official court file is summarized by the progress docket, which is preceded by a list of witnesses.

Not filmed were records duplicated elsewhere in this microfilm publication, such as prosecution and defense document books in the German language that are largely duplications of the English-language document books.

The records of the I. G. Farben Case are closely related to other microfilmed records in Record Group 238, specifically prosecution exhibits submitted to the IMT, T988; NI (Nuernberg Industrialist) Series, T301; NM (Nuernberg Miscellaneous) Series, M-936; NOKW (Nuernberg Armed Forces High Command) Series, T1119; NG (Nuernberg Government) Series, T1139; NP (Nuernberg Propaganda) Series, M942; WA (undetermined) Series, M946; and records of the Brandt case, M887; the Milch Case, M888; the Altstoetter case, M889; the Pohl Case, M890; the Flick Case, M891; the List case, M893; the Greifelt case, M894; and the Ohlendorf case, M895. In addition, the record of the IMT at Nuernberg has been published in the 42-volume *Trial of the Major War Criminals Before the International Military Tribunal* (Nuernberg, 1947). Excerpts from the subsequent proceedings have been published in 15 volumes as *Trials of War Criminals Before the Nuernberg Military Tribunal Under Control Council Law No. 10* (Washington). The Audiovisual Archives Division of the National Archives and Records Service has custody of motion pictures and photographs of all 13 trials and sound recordings of the IMT proceedings.

Martin K. Williams arranged the records and, in collaboration with John Mendelsohn, wrote this introduction.

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Roll 3

Target 1

Volume 4, p. 1,000-1,339

Sept. 19-26, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 4**

TRANSCRIPTS
(English)

19-26 September 1947 pp. 1000-1339

Official Transcript of the American Military Tribunal
No. VI in the matter of the United States of America
against ERIC RAUCH, et al, defendants, sitting at
Nuremberg, Germany, on 19 September 1947, 0930-1630
hours, Justice Shake presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.
Military Tribunal VI is now in session. God save the United
States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants in the dock?

THE MARSHAL: May it please your Honors, all the defendants are
present save the defendants Furster and Ligner, who are absent due to
illness.

THE PRESIDENT: The Tribunal has a memorandum from the doctor
reciting that the Defendant Ligner is still temporarily indisposed,
he will be excused from attendance for the day. This memorandum will be
filed in the record.

Is the Prosecution ready to proceed?

MR. CHAMATZ: Yes, Your Honor. With Your Honors' permission, the
Prosecution would like to call the witness Hermann von Hanneken

THE PRESIDENT: Very well. The Marshal will escort the witness
to the witness stand.

The Tribunal assumes that this witness is a German national and
should have the German oath. Is that right?

MR. CHAMATZ: Yes, Your Honor.

HERMANN VON HANNEKEN, a witness, took the oath and testified as
follows:

THE PRESIDENT: The witness will hold up his right hand
to be sworn as a witness. The witness repeat his name.

WITNESS: I, Hermann von Hanneken,

THE PRESIDENT: Do repeat after me, I swear by God, the
Almighty and Omnipotent, that I will speak the pure truth and will
withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

The Prosecution may proceed.

DIRECT EXAMINATION

BY MR. CHAMBERS:

Q. Mr. von Hennicke, will you please give the Tribunal a short description of your professional career?

A. I was born on 5 January 1890 in Gotha. I was educated in the corps of cadets, and in April 1908 I entered the army in the Gardes-Francaises Regiment No. 8. During the first World War I fought in the East and in the West. At the end of the war I held the rank of captain. After the first World War I was in the then Reichswahr Ministry first in the Great Power Commission and later in the Department for Foreign Affairs.

Until April 1924 I was in Berlin on the staff of the Seventh Division and with the commander of Infantry No. 7. From April 1924 to July 1927 I served in the Army Ordnance Office for the first time. Then, from July 1927 until July 1930, I led a company in Schwerin, and then again I served in the Army Ordnance Office up to April 1933.

Then I was in Breslau from December 1934 until July 1937, I was again in the Army Ordnance Office, where I was Chief of Staff of the Army Ordnance Office. In July 1937 I was appointed by the Plenipotentiary for the Four-Year Plan to the program of the Four-Year Plan, and was put at the disposal of the Wehrmacht by the Plenipotentiary of the Four-Year Plan, and was ordered there. The Plenipotentiary for the Four-Year Plan appointed me Plenipotentiary General for Iron and Steel. At the same time when the Reich Economic Ministry was reorganized, which was at the beginning of the year 1938, I was assigned the Reich Ministry of Economics. There I took over Main Department No. II, which contained Mining, Steel and Iron industries, and the Power industry.

When, at the beginning of 1933, the Department Chief of Main

Department 1, at the time General Loeb —

Q. May I interrupt? I am sorry, Your Honors. The translation came through "1933". The witness said in German "1939." I am sorry to interrupt.

THE PRESIDENT: Very well. The correction will be made. Perhaps for the record, you might ask the witness directly.

MR. CHARLITZ: Thank you.

BY MR. CHARLITZ:

Q. Mr. Von Haeften, when did you take over also the Main Department No. 1 after Col. Loeb had left the Ministry of Economics? Which year was it?

A. That was in 1939, at the beginning of 1939.

Q. Thank you; you may continue.

A. At the beginning of 1939, after General Loeb left the Ministry of Economics and I took over upon the instigation and by order of Minister Funk, I took over the functions of the Industrial Department at the time — that is the department which had under its jurisdiction all the manufacturing industries of Germany. I assumed functions of the unified Main Departments 1 and 2 and carried them out until December 1942, when I expressly requested to be transferred back to the Wehrmacht, and when I became a Wehrmacht commander in Denmark. I held this position until January 1945, and was then put at the disposal of the offices of the Army.

Last, I was commander of Schildau, and was taken prisoner on 8 May.

Q. Mr. von Haeften, so you joined Goering's office of the Four-Year Plan in July 1937 as Plenipotentiary General for Iron and Steel? Is that correct?

A. Yes; for Iron and Steel.

Q. Were you also familiar with the work of the other departments of the Four-Year Plan?

A. I believe that I can answer this question in the affirmative.

In the Four-Year Plan, as such, we had conferences, at first every two weeks, later every four to six weeks, where we discussed the scopes of activities of the various business groups and the plenipotentiaries. Besides that, as plenipotentiary as chief of a main department made it possible for me to know the relevant regulations and edicts which had been issued within the scope of the Four-Year Plan and otherwise. Thus I was able to gain insight into the work of the other business groups and plenipotentiaries of the Four-Year Plan.

Q. I think this is enough, Mr. Witness.

When did you first hear the name of Dr. Carl Krauch?

A. I believe that was during my activity as Chief of Staff of the Army Ordnance Office. That is to say during the period from 1935 to 1937, I already came into contact with Dr. Krauch. I believe that at the occasion of some discussions which Dr. Krauch had with my department chief, Gen. Liese at the time, I made the acquaintance of Dr. Krauch.

Q. Could you tell me, Mr. von Hanneken, what sort of discussions took place between Dr. Krauch and your department chief, Liese, during the years 1935 and 1937?

A. I cannot recall the details. However, by reason of the knowledge of the subject matter which I have must assume that it was discussions about powder and explosives at the time.

Q. Now, Mr. von Hanneken, what position did Dr. Krauch hold in the Amt fuer Deutsche Roh- und Werkstoffe--that is, the Office for German Raw Materials & Synthetics--in July 1937, when you joined Goering's staff?

A. Prof. Krauch was chief of a department at the time for the Department of Research in the Office for German Raw Materials & Synthetics.

Q. One question: Only research?

A. Research and Development.

Q. Thank you. Now, Mr. von Hanneken, was this an important position within the framework of the Four Year Plan?

A. I believe that this very position was among the most significant within the framework of the Office for German Raw Materials & Synthetics within the Four Year Plan. By reason of the insights which had been gained in this department the corresponding conclusions were made, and according to these conclusions the decisions of the Plenipotentiary for the Four Year Plan were made for the utilization of the inventions and values which had been made in the Department for Research and Development.

Q. Thank you. May I ask the Tribunal to show to the witness the Exhibit 424 which is ME 4703? This exhibit is contained in Document Book 20 of the

English text. It was, Your Honors will recall, a chart of the organization of the Four Year Plan, and the middle piece, which was the department of the defendant Krauch, was translated in the English document book.

THE PRESIDENT: The Tribunal sees no objection whatever in that practice, and you may hand the exhibit referred to to the witness if you so see fit.

MR. CHARLATZ: Thank you, Your Honor.

(Document handed to witness)

THE PRESIDENT: Am I correct in assuming, Mr. Prosecutor, that this exhibit is the over-all plan in German rather than the excerpt which was translated and included only a part of the exhibit which you now refer to?

MR. CHARLATZ: Yes, Your Honor, the witness is shown the complete German photostat.

THE PRESIDENT: Very well.

BY MR. CHARLATZ:

Q. Now, Mr. von Hennecken, if you look at this chart, do you think that what you just said, that the defendant Krauch held a key position in the Four Year Plan, is substantiated by this chart?

MR. CHARLATZ: Your Honors, I was just informed by the Secretary General here that the photostatic copy which is in the files of the Tribunal is not too clear, and that it might be difficult for the witness actually read this exhibit. Under those circumstances, I think it would be of no use to ask the witness any question in connection with this photostat which, as I am informed, is not very legible.

THE PRESIDENT: Are you therefore withdrawing the question?

MR. CHARLATZ: Yes, Your Honor.

THE PRESIDENT: Very well.

BY MR. CHARLATZ:

Q. Now, Mr. von Hennecken, can you give us the reason which induced Goering to reorganize, in February 1938, the Office of the Four Year Plan? And, at the same time, the Reich Ministry of Economics?

THE PRESIDENT: The witness will please not answer the question; it appears that counsel for the Defense desires to address the Tribunal.

DR. DITZ. (Counsel for defendant Schneider): I couldn't understand where the document was to be found in the German book.

MR. CHAPMAN: The German document is to be found in German book 20, page 1.

THE PRESIDENT: Now the witness may answer, if he has the question in mind; if not, it will be restated for him.

WITNESS: I have not the intimate knowledge of the events which led to the reconstruction of the Ministry of Economics and which indirectly changed conditions in the Four Year Plan. I can only state that we who were transferred into the Ministry of Economics were told that the plenipotentiary for the Four Year Plan, Hermann Goering, did not consider Mr. Schacht's economic policy expedient any longer, and that Mr. Schacht's policy did not have the prerequisites for valid work to be done in the Four Year Plan; and that, therefore, a change in the Ministry of Economics would serve the interests of the Four Year Plan better.

Q. Do you know what position the defendant Dr. Loeb was given in February 1938, when the general reorganization of the Reich Ministry of Economics took place?

A. The then chief of the Office for German Raw Materials & Synthetics, Col. Loeb, was transferred to the Ministry of Economics, and he took over a main department. His up to then chief of staff the then Major Schmitt was made the chief of the office which was now called Agency for Economic Development, which was before the Office for Raw Materials & Synthetics. In this agency, which was the Agency of the Reich for Economic Development, Loeb had the function of a department chief of the Department for research and development. And, as far as I know, he was the deputy of the chief.

Q. One question: I think the translation did not come through correctly. Is it correct that you said that the Reichsstelle fuer Wirtschaft-

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schaftsausbau--the Reich Office for Economic Development--was the predecessor, that it came before the Office for German Raw Materials (Synthetics? Or is it the other way around?

A. It was formerly called Office for German Raw Materials and Synthetics and then, when the Ministry of Economics was re-formed, it was made a subordinate agency of the Ministry of Economics and was re-named Reich Agency for Economic Development.

Q. Did this re-organization mean that the "Reichsstelle", the Reich Office for Economic Development, was not a part of the Four Year Plan any more? You mentioned that the office was subordinated to the Reich Ministry of Economics in 1936.

A. The Plenipotentiary for the Four Year Plan, as such, was also the superior of the Ministry of Economics, for the Plenipotentiary for the Four Year Plan had the right to issue directives to all Reich authorities. The cooperation between Minister Funk and the Plenipotentiary for the Four Year Plan, Goering, at least at the beginning was quite close. That is to say, Goering was actually able to issue any directive to the Reich Office under Funk and as far as I remember the Reich Office was again active separately because it could report directly to the Plenipotentiary for the Four Year Plan and it was also present at the meetings of the Four Year Plan.

Q. So did I understand you correctly that there existed a special channel of command between the Commissioner of the Four Year Plan and the Reich Office for Economic Development in addition to the usual channel which had to go through the Minister of Economics.

A. Yes, that's correct.

MR. CHARMATZ: May I show the witness the Exhibit 435 which can be found in the English Document Book 20 on page 49 and 50 and also in the German text at the beginning of the German Book 20? This exhibit is perfectly legible; I checked it myself, Your Honor.

THE PRESIDENT: That may be done. The exhibit may be passed to the witness.

(Document handed to witness)

BY MR. CHARMATZ:

Q. Mr. von Hanneken, at the bottom left-hand corner of the first

page of this photostatic copy you see a square for the Reich Office for Economic Development and under this - it's in the English text on page 50 - it was made into two pages in the translation and under this big square there are two smaller squares, one, "First Department for Research and Development, chief, Dr. Krauch", and then, "Second Department, Planning and Execution, chief, Major Dr. Geist". Could you find this, witness?

A. Yes.

Q. Can you tell me, Mr. von Hanneken, whether Major Geist, who is shown here as chief of Department II, ever took over this function as chief of the Department for Planning and Execution?

A. Mr. Prosecutor, originally Major Geist did have this position for that was his department which he held in the Office for German Raw Materials and Synthetics before. When this agency was transformed into the Reich Agency for Economic Development, that would have meant that he retained his department, but that was not the way it was done. Major Geist, when Major Loeb was transferred into the Reich Ministry of Economics, was taken over with Major Loeb and received the corresponding function in Main Department I and then Dr. Bauer at the time took over Department II, a gentleman who was active in the Reich Office for Economic Development. He was active in research and development and this gentleman was subordinate to Dr. Krauch.

Q. Did I understand you correctly that before the time that Dr. Bauer took over this department for Planning and Execution he was a subordinate to Dr. Krauch?

A. Yes, Dr. Bauer was his subordinate.

Q. Do you know whether Dr. Bauer kept this position which was as is shown here in this chart on the same level as Dr. Krauch or whether Dr. Bauer later on became again a subordinate of Dr. Krauch?

A. I believe that Dr. Bauer retained the position of Department Chief. It is true, afterwards when Herr Krauch was given the direction of the Reich Office of Economic Development he again became the subordi-

note of Mr. Krauch.

Q. Have you ever seen the over-all production plan of the Four Year Plan which contained all planned new fields and new investments in the field of raw materials? This document was usually referred to in the Office of the Four Year Plan as the "Bible of the Four Year Plan".

A. Yes, I know the so-called Bible which contained all planning of the Office for German Raw Materials and Synthetics, that is, the later agency for Economic Development, and, as far as I can remember, I saw at the beginning of 1937 the first draft of office in the Army Ordnance Office.

Q. Is it correct or did I understand you correctly that this over-all plan was first worked out by Colonel Loeb's Office for German Raw Materials and Synthetics and then when Colonel Loeb entered the Ministry of Economics that the Reich Office for Economic Development made this over-all production plan?

A. Mr. Prosecutor, that was a natural consequence. Colonel Loeb was at the time the chief of the Reich Office. His successor was Herr Schimatis and as a result it was now Mr. Schimatis' responsibility and this "Bible" was then issued by Mr. Schimatis in the years which followed.

Q. Can you tell me how long Major Schimatis kept his position as chief of the Reich Office for Economic Development?

A. Major Schimatis, as far as I remember, left the Reich Office at the beginning of the campaign in 1939 and returned to the Army and took over a motorized artillery regiment.

Q. So Major Schimatis could have been in charge of this task for not much more than about 18 months, is that correct?

A. Yes, that's about correct.

Q. And who took over this function after Major Schimatis left the Reich Office? The function of drawing up this over-all plan.

A. The responsibility was then turned over to Mr. Schimatis' successor together with the functions of directing this department was then turned over to Dr. Krauch.

Q.- May I show, with the Tribunal's permission, the Exhibit 436 to the witness? This is the document NI-8799 which can be found in the German Document Book 20 on page 4.

THE PRESIDENT: The exhibit may be passed to the witness.

BY MR. CHARMAZ:

Q.- Mr. von Hanneken, could you read out the first page, the title page of this document, of this photostatic copy which you have there? Would you read out loud, the title of this?

A.- "Reich Office for Economic Development." At the top of the document it says "Top Secret." Then it says, "Compilation of the Production plan for Powder, Explosives, Chemical Warfare Agents including Preliminary Products. State as of 10 January 1938."

Q.- Would you now please turn your attention to the second page of the document of the left-hand corner? Could you please read out and afterwards explain these few words here?

A.- At the top there are a few numbers written in. It says "Top Secret, Department F of 9th and 10th of June 1938, Department III." Then below "five copies." "First copy: Dr. Krauch; second copy: Dr. Rau, third copy: Dr. Kern; fourth copy: Herrle for Neumann, and fifth copy: Dr. Ritter."

Q.- Can you please explain to the Tribunal what this Abt-F and Abt-P of 9th and 10th June 1938 means?

A.- I assume that Department F is Department for Research and Department P, probably the Department for Planning since this is a document of the Reich Agency, and the Reich Agency consisted of these two departments, I conclude that this must be so.

Q.- Witness, you recall that you stated before here that the Chief of the Reich Office for Economic Development was Major Schimatis and that the Chief of the Department P, that is "Planning", was Dr. Bauer. How can you explain that neither the name of the Chief of the Reichstelle

Q. Now, do you know whether in May or June 1938 the Reich Office for Economic Development had any jurisdiction in the field of production of gunpowder, explosives, and chemical warfare agents?

A. I have already stated before that I know the "Bible". From there I do not recall at all or from the activity of the Office for German Raw Materials and Synthetics at the time that powder, explosives, and chemical warfare agents were planned or discussed. The "Bible" and my recollection tell me only that the Office for German Raw Materials and Synthetics occupied itself with the pre-products, sulphuric acid and citric acid, but they did not concern themselves with carrying out and meeting the needs for explosives and powder for the armed forces.

nor the name of the Chief of the Department P, "Planning", Dr. Bauer shows up on this document? After all as is shown here it was worked out or one may deduce this, that it was worked out by both Department F and Department P.

A.- Apparently according to the copy of the photostat which I have in front of me the Chief of the Reich Office didn't receive any copy, at least, for according to regulations this was called the regulation for secret matters and it would have been necessary to list the Chief of the Reich Agency if he had received such a copy.

Q.- And what about the Chief of the Department Planning?

A.- The gentlemen which are listed in copies one to five and which received their copies, I am not quite clear about these gentlemen. I only know personally Dr. Ritter. I do not know whether Mr. Pau, Mr. Kern or Mr. Neumann were members of Department P.

Q.- But you know that they were not the Chiefs of this Department P, do you?

A.- Yes, I know that.

Q.- Now, since you stated before that the Reich Office at that time had no jurisdiction in the field of production of gun-powder, explosives and chemical warfare agents how could Dr. Krauch have worked out such a plan at all? Who could have given him the authority to do so?

A.- I know that in the Air Force at the time there was a lot of resentment, because the Army Ordinance Office had not met the requirements of the air force of explosives and powder for the anti-aircraft ammunition. I imagine that Gen. Thomas, who was the Chief of the Military Economic and Armaments Office in the Supreme Command of the Army discussed this matter and I can assume that the then Chief of the Airforces, Gen. Udet, in order to improve the shipments for the anti-aircraft program approached Herr Krauch by mediation of Thomas

so that neutral person should investigate the matter and that something should be done for the Airforce more than was otherwise done by the Army Ordnance Office. I could explain this by the fact that Herr Krauch, as an immediate subordinate of Goering, was the proper person because he was interested in this matter.

Q.- But you have no direct knowledge of this? This is just an assumption of yours?

A.- The latter is a mere assumption of mine.

Q.- Now, only one more question concerning this Exhibit 436. As you see the document to you think it's possible that Major Schimatis and Dr. Bauer could have had copies of this or that they worked out, if you consider the distribution list on page 27

A.- It is, of course, possible that copies were made, but it should really then have been noted on this document.

Q.- I want to point your attention to the fact that this is a secret Reich Office and that all of the copies are listed. Is it possible that you can just make copies of a secret Reich matter (Top secret matter) without listing them in the original document?

A.- It was certainly not permitted.

Q. Can one say that after July, 1938, the original Four Year Plan, which was spread over a great number of products, as you said, became at that time a plan which was concerned more or less exclusively with the work of the defendant Krauch?

A. Mr. Prosecutor, by Goering's creating the Hermann Goering Works, in 1937 a certain integral part had been taken out of this Office for German Raw Materials and Synthetics for the responsibility for iron and steel industry there was responsibility for extending for the mines in the Salzgitter area - was transferred in directly either to the Plenipotentiary for Iron and Steel Industry or the Hermann Goering Works. Besides that, when the Ministry of Economics was transformed or reconstructed, a part of those matters which had to do with mining, that is, the extension of copper and lead mines, etc, was made part of the Ministry of Economics, the newly organized Department for Mines. Essentially, the Reich Office for Economic Development concerned themselves only with chemical matters and, of course, I may point out here that questions of textiles and wood substitutes played a certain part, but that, as a matter of course, the question of utilizing the mineral production, the extension of artificial rubber, the extension of light metals production, were given main attention, next to the production of synthetic rubber.

Q. Now, Mr. von Hanneken, you mention the production of iron and steel. As Plenipotentiary General for Iron and Steel you should know this field particularly well. Could you please tell us whether there was a basic difference between the execution of the Four Year Plan in the field of iron and steel and other metals or ores, on the one hand, and the execution of the plans for chemical or synthetic materials, on the other hand, with regard to who undertook to construct such new plants.

A. The activity of the Plenipotentiary for Iron and Steel Industry was a position of steering. The Plenipotentiary for Iron and Steel Industry did not concern himself with details, that is to say, to make changes on blast furnaces, to reconstruct or transform certain plants,

to investigate or order such small details, The Plenipotentiary for Iron and Steel Industry only had a steering influence in the area of iron and steel. However the activity of the Plenipotentiary for Chemical Production and the activity in the Office for German Raw Materials and Synthetics was a more detailed one: It was a steering of the various plants and it was actually drafting of the blue prints of the various buildings. So that, next to the general activity of directing the plants, this was a more detailed one in the Office for German Raw Materials and Synthetics, and later with the Plenipotentiary, and that he was responsible for execution of those plans which he had made, of extending the various plants, etc., and that he also had to direct this activity.

Q. I think I did not make myself perfectly clear. I wanted to ask you, witness, who actually executed the projects in the field of iron and steel, on the one hand, and who took over in the general synthetic or other fields to construct the factories, etc., which were outlined in the over-all production schedule?

A. If I understood you correctly, Mr. Prosecutor, then you intend to ask me that the creation of the Hermann Goering Works was a matter of the state. That is to say, that all those affairs which were carried out in the iron and steel sector were, first of all, carried out by the organization which was founded by the state, namely, the Hermann Goering Works, and, in the field of light metals of mineral oils and other chemical products, it was not the state who concerned themselves with these matters, but but those plants concerned themselves with these things who were active in industry. Am I correct if I understood your question to this effect?

Q Yes.

One more question. Was it planned in the beginning of the Four Year Plan in 1936 that, in the field of iron and steel, a state-owned corporation should take over, or did one also, in this field, approach the iron and steel industrialists to organize new factories and to extend ore mines, etc.?

A Originally, it had been intended this way and Goering had asked the Ruhr industrialists that these people should cooperate to work the Salzgitter ores and also construct the blast furnaces in the ore region. Numerous negotiations were carried on between Goering and, I believe Herr Voegler, and, finally, they resulted in having the Ruhr people deny the requests which Goering made because they did not believe they would be able - and I may say here that the Salzgitter ores are a rather low grade so-called "sour" ore which is not easily mined and that the risk for private industry was certainly very large - so that these people feared that, under normal conditions they would not be able to make any profits with the normal investments which they would be required to make and, therefore, they opposed this plan.

Q Didn't the same considerations hold true also for the vast field of synthetic materials? These materials were also much more expensive than the original imported materials.

A That is certainly correct. These materials were more expensive, but, as far as I am informed, the experiments had been carried out so successfully that one could expect that mineral oil production and synthetic rubber production could be carried out in such a way that they could compete, as far as price was concerned, with natural rubber and with natural oil products.

Q Now, you were, between 1938 and 1942, the Chief of the Department I and Department II in the Ministry of Economics. Did you have, in this capacity, under your jurisdiction also the entire chemical industry?

A Yes. In the Main Department, I had a chemical sub-division which was supposed to supervise, within the framework of the Ministry of Economics, the chemical industry and economy.

Q Now, could you describe to us, as concisely as possible, the importance of Farben in the field of the production of chemicals and raw materials and what the role of I.G. Farben was during the years 1938 and 1942, that is, during the last few months before the war and the first three years of the war.

A From the time after the first World War, when I was active in the Army Ordnance Office, the significance of Farben had become clear to me as that firm which played an extraordinary part in all chemical production. More and more, and especially in my position as Chief of Staff of the Army Ordnance Office, I was able to understand the significance of Farben as the pioneer firm for developing Buna, for improvements in hydrogenation processes of fuel oil, the development of light metals, but also the improvement and employment of preliminary products for powder and explosives. At that time, I certainly did not realize the significance of Farben as an international firm and as the only German chemical raw materials firm, as I was able to do later when I was with the chemical department in the Ministry of Economics. In the preliminary reports which my experts and department chiefs made to me, the position and influence of Farben in the chemical life of the German Reich was stressed. I believe that in retrospect now I can say very easily that they told me at the time that within the chemical industry Farben represented about 70% and that, in a number of fields, such as dye stuffs and also in the pharmaceutical field, Farben had a position which almost could be termed as a monopoly. In the field of the other industries Farben also made itself felt. Farben, for instance, in the refining of steel cannot be eliminated for the questions of molybdenum and wolfram were questions for Farben. In the leather industry, Farben was very influential with their tremendous

experience and investments in the field of artificial leather and in the field of industry which could do without Farben then and particularly after 1939 during the conduct of the war, they all depended on Farben for their products, in one way or another.

Q Now, may I just ask two more questions. Mr. von Hennecken, do you think that, without the full and voluntary cooperation of I.G. Farben the Third Reich could have prepared for war and could have waged war for so many years?

A I have already explained the tremendous dependency of the entire German industry on Farben products. If one were to eliminate Farben from the interests of the Reich, before and during the war, then practically very little remains for a waging of war in the chemical field, so little remains that nothing could have been carried out or executed. I do not know, for instance, how our crops could have been harvested without Leuna (synthetic gasoline) and how lubricants and fuels could have been created without Leuna. That is to say, without Farben, practically the waging of a war would not have been possible.

Q One last question. Could you, Mr. von Hennecken, or any other high official of the Four Year Plan or the Ministry of Economics make a clear distinction between I.G. Farben, on the one hand, and the Office of the Plenipotentiary General for Chemistry and the Reich Office for Economic Development, on the other hand, during the years 1939 through 1945 or, since you left the Ministry in 1942, up to 1942?

A Mr. Prosecutor, it is very difficult to make a distinction in this question. Practically the state of affairs is the following: on one side the Reich Office for Economic Development which is staffed by numerous gentlemen from Farben; on the other side you have the Plenipotentiary for Chemical Production who in turn was supported by the Reich Office for Economic Development, since the Plenipotentiary for Chemical Production did not have a staff of workers himself, but he rather had to depend on the Reich Office; the Plenipotentiary himself was also a member of Farben.

I had frequently occasion to cooperate with the gentlemen of the Reich Office. I also had an occasion frequently to work with Dr. Krauch. I personally never felt that the statements which Dr. Krauch or Dr. Eckel, one of his closest collaborators, made towards me or towards members of my chemical department, I never felt that they were concerned with I.G. Farben Interests. I felt that I am confronted with an objective and neutral person, who tries to reconcile the difficult position in which he found himself and under no circumstances to play the hand of his own firm, but to carry out his official function as Plenipotentiary in a neutral manner, that is to say, as director of the department for research and development. But I must admit, it is true, that certain difficulties in my department frequently manifested themselves because the Reich Office for Economic Development and the Reich Plenipotentiary for Chemistry had originated from Farben and that because of the cooperation between the people which surrounded the Plenipotentiary General, Farben's interests were much more considered in the field of the Reich Office for Economic Development when ^{they} were concerned with processes of the Reich Plenipotentiary than was done with other firms of the chemical firm which did not belong to Farben.

MR. CHASSETZ: This might be a convenient time to recess, Your Honor.

THE PRESIDENT: The Tribunal will rise.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

The Defense may cross examine the witness in the box.

CROSS EXAMINATION

DR. SCHUBERT: Dr. Schubert, Counsel for the defendant, Dr. Buergin.

Q Witness, if I understand you correctly, you mentioned that Farben was the main bearer of light metal production, is that correct?

A Farben, as far as I remember, participated in light metal production heavily.

Q Could you tell me whether this activity extended to or limited itself to a certain metal?

A In particular I think Farben was very active with magnesium and carried out its development.

Q Do you know what the participation of Farben was in the aluminum production?

A Farben had a much smaller part in the aluminum production. As far as I can gather, it was about thirty percent.

Q Witness, if I was to put to you that in effect it was only seven percent, would you admit that possibility?

A Yes.

Q Thank you. I have no further questions.

DR. von METZLER: Dr. von Metzler, Counsel for the defendant, Haefliger.

Q Witness, in connection with what my predecessor just asked you, I have just one more supplemental question to put to you. Do you know

the proportion of magnesium to aluminum in the case of the production of light metals? What was the relation of these two materials to one another?

A. Well, Defense Counsel, though I am not an expert, I do remember that magnesium at the beginning of the War played practically no role whatsoever or at least not shortly before the War. Magnesium -- and I can perhaps give you a figure -- amounts to about three percent of the entire production if at all. On the other hand, however, magnesium in the course of the development of the War assumed a much greater significance.

Let me remind you that as one of a number of essentials for the production of tanks and for the production of guns magnesium played a particular part. Magnesium was also used for bombs and from a practical point of view the development of magnesium achieved great significance later on.

Q. Would you then wish to say, witness, that the aluminum which, as I said before, played a predominant part in the production of light metals decreased in its significance during the War?

A. No, I didn't want to say that at all. I merely wanted to point out that on the basis of the development work which was done and on the basis of the new research, a new metal arose at the side of aluminum which was magnesium. Magnesium, though originally it played a very small part in the light metal field, increasingly moved into the foreground. In the course of the War a number of products were actually made of magnesium.

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Q. Could you perhaps tell us from your knowledge who the main bearer of aluminum production was in Germany?

A. The main bearer of aluminum was the Associated Aluminum Works, the Reich Aluminum Works.

Q. Let me put a further question to you, which is in a different field. Witness, do you know who the main bearer of fine metal production was in Germany?

A. These were the German Main Fine Metal Works at Krefeld.

Q. Thank you very much. No further questions.

MR. DRISCHER (For the defendant Ambros): I have just one general question to put to the witness, Mr. President.

Q. Witness, upon the question by the Prosecutor, you stated that you could not imagine that the war would have been waged without the assistance of Farben. I think that this question warrants greater precision; did you want to say that without their products and without their works and their production the waging of the war would have been unthinkable.

A. Yes.

Q. In that case you don't want to make any Subjective judgment about the participation of the leading gentlemen of Farben in the waging or preparing for war?

A. I am merely referring to the points concerned and I said "if Farben had been erased."

Q. Well, that is sufficient, but don't you think that is quite a general statement, which in the same way holds good in other fields of economy, even for agriculture?

A. Certainly, of course you can refer that to other subjects but the significance of the plants of Farben was predominant in many, many spheres and certainly if Farben was not in existence the waging of the war would have been practically impossible.

Q. In this area today does that not hold true of the Chemical Industries all the world?

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A. Correct, one must agree that stands throughout the whole world and you can say if certain chemical industries are taken away the entire life would be different.

Q. Thank you very much.

THE PRESIDENT: Is there to be any further cross-examination of the witness?

There appears to be none. Has counsel for the prosecution any re-direct examination.

MR. SPENCER: No re-direct, Your Honors.

THE PRESIDENT: Then the Tribunal will excuse the witness from the box.

MR. AMCHAN: If Your Honors please, we are about to proceed with book 28, being the first book relating to Farben's participation in the production of synthetic rubber.

THE PRESIDENT: Counsel may proceed.

MR. AMCHAN: We offer in evidence Exhibit No. 545, NI-6930, being letter of November, 1933 from I. G. Farben Ludwigshafen with copies to the Reich Minister of Economics, with respect to the production of synthetic rubber. I ask Your Honors first to turn please to page 3, which is page 3 of the German book, - that is a memorandum of 15 August 1933 from I. G. Farben to the Army Ordnance Office relating to its experiences in the experimenting on synthetic rubber. Toward the bottom of that page, I ask Your Honors to note in the I. G. Farben memorandum to the Army Ordnance: "Of importance furthermore would seem to be certain indications that the new products surpass natural rubber tires in non-skid properties. On these grounds the manufacture of synthetic rubber would seem to hold some promise once again so that the I. G. could be willing to resume their experiments on a large scale."

And on page 4, the next page, the last paragraph after indicating certain proposals in which I. G. would be willing to proceed, this memorandum states:

"Should the Government decide to proceed in the manner indicated,

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the I. G. would resume their work without delay and on a larger scale, starting by manufacturing a considerable number of tires to be tested in their own factory. Should these tires prove themselves to be satisfactory, the manufacture of tires for the Government would follow."

I ask Your Honors to please turn to page 1,--that is page 2 of the German book--which is a letter of 13 November 1933 from Farben to the Reich Minister of Economics and at the bottom of the page, if Your Honors please:

"With reference to the meeting at the Reich Ministry for Economic Affairs on 25 October 1933, we are sending you a copy of our memorandum on the subject to the Army Ordnance Office dated 15 August 1933."

That was the memorandum I read you a moment ago. Then on the next page, this now is to the Reich Minister of Economics, enclosing a copy of the memorandum for the Army Ordnance:

"In our opinion, as was pointed out orally, it is necessary that, before we can resume our efforts on a larger scale, the Government would decide whether they are sufficiently interested in the manufacture in Germany of synthetic rubber to be prepared to support the project in the manner indicated."

This exhibit, if Your Honors please, was the starting point. As early as 1933 all the I. G. Farben associated with the military officers and discussed the beginning of the production of synthetic rubber.

We offer next in evidence, if Your Honors please, as prosecution exhibit No. 546, HL-4713. It is a letter from the Reich Chancellery to I. G., dated 23 November 1935, stating that Hitler was greatly interested in speeding up construction in Farben plants and asked I. G. to speed up the plans.

The document also includes minutes and memorandums of meetings with Government officials. Preceding this letter, I ask Your Honors to please turn to page 9, page 14 of the German document book. It is a file memorandum, dated 10 January 1935 on the visit of an official of an Army Ordnance Office to I. G. Farben at Leverkusen. The first

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sentence:

"Dr. Karaman came unexpectedly, in order to get a picture of the position of the work on rubber and to be able to report to General Hesse about it at the end of the week."

On the next page, which is page 15 of the German book;

According to Dr. Sagemann, the production of synthetic rubber is no longer a question of foreign exchange, but had become a question of military policy."

This is the notice that I.G. has as to this meeting.

On page 8, if Your Honors please, a meeting a month later, page 13 of the German document book, on 20 February 1935 a conference at the Army Ordnance you notice is represented on behalf of I. G. and the signer is Struss. I call Your Honor's attention to the fact that Struss, as appears from this, is in on the conference with respect to synthetic rubber. The reason I call attention to that is later on in our evidence, we have a substantial number of affidavits from Dr. Struss summarizing the history of all these conferences. I point to the fact that he besides being the recorder and keeping the records of I.G. Farben was himself a participant at these meetings and consequently was in a position to state what transpired.

Now, on page 8, which is page 13 in the book - in the German book in the middle of that page. We say as well read it, it is short:

"Major Philipp of Army Ordnance explained once more that the Wehrmacht claimed the absolute leadership in the synthetic rubber question. He did not however reject our opinion that synthetic rubber could also be used for foreign exchange reasons."

That is page 13 of the German book, page 12.

"He did not however reject our opinion that synthetic rubber could also be used for foreign exchange reasons and for peaceful purposes, and that for this reason, we ought to take part in the conference with Keppler. The opinion of the gentlemen, as they are expressed in the enclosure, were discussed once more. The aim was to cover the entire peace requirements of the Army with synthetic rubber. Exact figures of these requirements were not available. The calculation seems to be 150 to 250 tons per month. If no agreement could be made with Keppler, the Minister,

of War General von Blomberg, would build his own factory. We have explained that the wishes of Keppler and those of the Wehrmacht could be complied with in the same factory, even if a somewhat different final product was demanded from the various offices."

On page 7, if Your Honors please, in the German book 10, another rubber conference. This is in September of 1935 at the Reich Chancellery. The defendant Ter Meer is present and reports on the condition of the work on rubber in I. G. Further down on page 7:

"After a long discussion, the following procedure is intended: The I. G. erects a factory, probably at Piesteritz, with capacity of 200 to 250 tons of rubber per month and planned for an expansion to 1,000 tons per month."

The peace time requirement, as their own records indicate, as extended by the army was 100 to 150 a month and then a plan in 1935 to construct a plant for 1,000 a month.

On page 6, if Your Honors please, a conference a month later, page 3 of the German book, in October of 1935 with Army Ordnance and officials of I.G. In the center of the page:

"Philipps, and that is Lt. Colonel Philipps, of the Army Ordnance stated the following: The peace-time demand for rubber by the Armed Forces was formerly over estimated. It only amounted to a fraction of the monthly capacity of 200 tons (about 50 tons monthly)

That I think is the starting point, if Your Honors please, of all the discussions on synthetic rubber. In 1935 the peace time requirements of the Army was 50 tons monthly.

On page 5, if Your Honors please, the letter from Keppler, Hitler's plenipotentiary for Economics, to I.G. Farben, dated 13 November 1935. Before referring to this letter, Your Honors will recall yesterday that I called attention and asked Your Honors to take judicial notice of the findings of the International Military Tribunal that on 21 May, 1935 was the date that conscription was put into effect in Germany and the I.M.T. had some observations with respect to the importance of 23 May 1935.

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This letter from Kessler to I.G. Farben is in November 1933. Page 6 of the German document book, Kessler to I. G. Farben, towards the end of the first paragraph:

"Then I spoke to the Fuehrer himself about this question and later I discussed it with the Finance Minister, from whom I have received enclosed opinion today...."

And the last paragraph, page 7 of the German book:

"As you know the Fuehrer is greatly interested in speeding up the construction of the installation as much as possible. I therefore ask you to carry on with your planning work as before and to start building as soon as an agreement between us concerning the main questions is reached. This is also in accordance with the suggestion of your Dr. ter Meer in any case. May I ask you about the quantity and the composition of the waste gas which will result from the anticipated rubber production of 200 tons and what utilization you have intended for this gas."

I'd like to call especial attention, if your Honors please, to this last sentence; May I ask you about the quantity and composition of the waste gas?"

We shall show later on, in connection with documents coming in and in connection with the oral testimony, that integrated with the rubber production certain waste gases, ethylene, come out; and your Honors will see that these gases were also used extensively for the production of explosives and gun powder and for the manufacture of poison gas. I mention this at this time because in 1935 Keppler is talking to I.G. Farben with respect to Rubber production. He wants information about waste gas and the point we are making now is that, as the evidence comes along, your Honors will please bear in mind that although, for purposes of convenience, we are treating rubber production as one field, you will note the integration between the expansion program to produce synthetic rubber and the program for the production of explosives and poison gas as by-products and being connected with the entire synthetic rubber program.

The next document is already in evidence as Prosecution Exhibit 95, being NI-8326. Page 15 is worth nothing, I think. I might say that this is a summary statement by Dr. Struss listing the conferences which I.G. officials had over this period of time with the military officials of Germany.

At Page 15, 2 May 1935 - Page 21 of the German - "Conference report (Dr. Konrad, Leverkusen) on a meeting in HWA with Dr. Hagemann and Dr. Exner. Discussion about the Armed Forces total requirements for synthetic rubber. Start of special test work especially for the Armed Forces."

That is 2 May 1935 and your Honors, of course, will recall what happened on 21 May 1935.

Two Pages further down, Page 17, 5 June 1936 - Page 22 of the German Book- Report of a conference with the Reich Economic Ministry:

"Report on the latest stand of the production of synthetic rubber. Utmost speeding of the further development and avoidance of useless investigations."

The date is significant, if your Honors please, 5 June 1936. Your Honors will recall yesterday we introduced a document of a meeting on 26 May 1936 when the Defendant Schmitz was present where Goering stated that all preparations have to be made in view of an assured waging of the war. Goering specifically asked about rubber and the defendant Schmitz, 26 May 1936, gave assurances. "This conference speeding up further development" follows that, 5 June 1936.

Further down on the page, 1936, 16 to 19 June and July, "Correspondence between Staff for Raw Materials and Foreign Exchange (Lt. Col. Loeb) and I.G., concerning the extension of the Buna Factory Schkopau to a capacity of 1000 tons a month and the possible construction of a second plant for 1000 tons a month." It is right after May, 1936.

A little further down, 29 September, 1936: "Correspondence between the Fuehrer's for Plenipotentiary Economic Problems, Koppler and Dr. Ter Meer, re the extension of the Schkopau Buna Plant to 2000 tons per month."

We offer next as Prosecution Exhibit 547, NI-7241 being an affidavit of Dr. Struss on the history of I.G.'s Buna production. It is quite a detailed affidavit setting forth extensively all the various conferences that took place over a period of time, who was present and what was discussed. Some of the references there, I think, are quite significant and do permit of oral discussion.

At Page 23, if your Honors please - Page 30 of the German Document Book - that is preceded by a discussion on the founding of the Buna works of the I.G.

At the top of the page "Krauch believes" -- this is a result of some discussion they had and he is recording what happened -- "Krauch

believes he is able to get along with substantially lower plant costs manufacture in Leuna. With that, and essentially, also conditional by the economic crisis in Germany, this plan was not executed, and only after National Socialism had taken over were the endeavors to establish the manufacture of synthetic rubber revived again."

Further down on Page 23, which is Page 30 of the German Book; "On 21 July 1934 there is a basic discussion in Leverkusen with the Reich Plenipotentiary for Rubber, E. HANSEN REFAHR, Hamburg, in which there participated, in addition to the gentlemen from Leverkusen, AMBROS from Ludwigshafen," which brings in the picture in 1934.

At page 24, if your Honors please, toward the bottom of the page - Page 31 of the German - "On 7 January 1935 there was again an unexpected visit by HANSEN REFAHR in Ludwigshafen, on which occasion he states that Mr. SCHACHT stated to Mr. SCHMITZ the necessity of providing a 2000- tons-per-month plant." Schmitz here has direct knowledge.

Page 26, if your Honors please, toward the lower third of the page, referring to conference Struss, in his reply, mentions that the planning and management of the plant that is to be built have been transferred to Dr. Ambros."

Page 27, if your Honors please, in the middle of the page: "On 21 January 1936 the Schopau Project is mentioned for the first time in a letter from Ter Meer to Keppler, which presumably was already approved by Keppler and the other pertinent authorities in verbal discussions."

I might interject at this point to call attention to the fact that we met Keppler yesterday when he was on the synthetic gasoline Board of Brabag. He is in the rubber business now.

Page 28, if your Honors please, in the middle of the page - Page 37 of the German book: "A few days later, on 15 June 1936, Krauch calls a conference in the Raw Materials and Foreign Exchange Office."

Krauch is present, Ter Meer for I.G. representatives of the

War Ministry, Army Ordnance and Supply.

"The increase of the Schopau Plant from 200 to 1000 tons per month is discussed. According to determinations of Koppler's office it is supposed to be possible to dispose of 1000 tons per month without difficulty. The result of the conference is confirmed by a letter dated 16 June 1936 from Ministerpraesident Generaloberst Goering. The participants: Krauch and Tor Meier.

Page 32, if your Honors please, about the middle of the page under "Bunawerk III, the date is a bit significant, I think.

THE PRESIDENT: Give the German reference, please.

MR. AMCHAN: Page 32 of the German: "Informational trip to Sudetengau from 28 October" that is 33 of the English Book.

THE PRESIDENT: Now repeat the reference pages of the English and German.

MR. AMCHAN: Page 33 of the English under "Bunawerk III" and Page 45 of the German Book. It is a short sentence, if your Honors please.

"1.) Informational trip to Sudetengau from 28 October to 1 November 1938," and it goes on to Page 46 of the German Book, but that is the sentence we are calling attention to: "Informational trip to Sudetengau from 28 October to 1 November 1938."

We are calling attention to the date, the proximity to the Munich Pact, 30 September 1938, and inspections right after in the Sudeten area.

We offer next in evidence, as Prosecution Exhibit 548, NI-479.

THE PRESIDENT: Counsel will pardon an interruption. I believe it would be an appropriate time for us to rise for our lunch.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION
(The hearing reconvened at 1330 hours)

THE MARSHAL: The Tribunal is again in session.

MR. SPEAKER: Your Honor, I don't know whether I am exactly in order on this point or not but I note that only Dr. Nelte for the defense is present and it seems to me that there had been the agreement made in chambers that at least one-third of defense counsel would be present and certainly defense counsel for the -- the assistant defense counsel or defendant counsel for those defendants who are absent and I was wondering what, under the circumstances, we ought to do.

THE PRESIDENT: Dr. Nelte, do you know anything about your associates? Will they presently be here?

DR. NELTE: I am convinced, Mr. President, that they will arrive very shortly and as defense counsel was only in short session during lunch and they did not show up.

THE PRESIDENT: Very well. Under the circumstances we will proceed unless the problem does become acute.

MR. MURKIN: I believe, your Honor, we just offered in evidence as Prosecution Exhibit 548 NI-9479, being an affidavit by Paul Dencker, who was the Chief of the Bookkeeping Department of I.G. Farben, on the right methods of financing Buna rubber. May I ask your Honors to please turn to page 42, page 56 of the German Book? Dr. Dencker says:

"The following financial agreements were concluded with various Reich Offices concerning construction and operation of the four Buna factories belonging to I.G."

He says Schkopau, Buna I plans to expand its 200 tons per month plant -- 200 tons converted by yearly basis would be 2400 tons in Schkopau -- to a production of 24,000 tons per year. Starting point, the 2400 to 24,000 tons plant. I.G. and the Reich Ministry of

Economics, since it is in agreement , which continued a guarantee of market and price." A little below that , page 56 of the German: "the credit was set at 90 millions Reichmarks." Down at the bottom of the page he says: "I remember that an exemption from property taxes was decreed for that part of the plants which worked on the processing of acetaldehyde to Buna." We will hear about that as a raw material to be used for other purposes.

Page 44, if your Honors please, page 59 of the German book, at the top of the page he is speaking about the Huels Plant -- "for the construction of the Huels plant with the planned production of 24,000 tons of Buna per year the Reichs Ministry of Economics granted a credit of 81,250,000 on conditions similar to those agreed on for Schkopau. Further down at the bottom of the page, page 61 of the German:

"Ludwigshafen . Before the plan to build a Buna factory in Ludwigshafen was put into effect preliminary work was started on the construction of the Buna factory at Rettwitz , which required about four million Reichmarks. This building project was dropped in favor of the building at Ludwigshafen."

And further down:

"Auschwitz:" and towards the end of that paragraph: "the Auschwitz Buna factory was built in an I.G. plant. Auschwitz has a special story which your Honors will receive in discussion of Count III. At this point, however, the statements of Dr. Dencker: "The Auschwitz plant was built as an I.G. Plant. "

We offer next as Prosecution Exhibit 549, NI-7625; copy of a letter from Goering to I.G. on the expansion of synthetic rubber at Schkopau, the letter dated 16 June 1936. On page 28 of the Document Book I already referred to the statement in Dr. Struss's affidavit, where he describes Dr. Krauch wanting a conference and agreeing on the Schkopau and Dr. Krauch having the recommendations confirmed the following day by Gen. Goering. Here is the original evidence, copies

of the original letters which is the basis for Dr. Struss's statement.

We offer next in evidence as Prosecution Exhibit 555 NI-582. The description is not entirely accurate. This document contains a report of the Working Committee made to the TEA with respect to the contract on Schkopau. The document also contains the contract. We had intended submitting the contract itself. We suggest to your Honors that all we are interested in at this point is the first seven pages of that document which is the report of the Working Committee made to the TEA setting out the details which are to be taken into consideration in arriving at a contract with Schkopau. It's a lengthy document and again it is the first seven pages and the purpose, of course, is to bring home knowledge to the members of the TEA and as to the details, scope and purpose of the Schkopau Buna plant.

We offer next in evidence as Prosecution Exhibit 551, NI-5908 being the Minutes of the meeting of the Technical Management Committee at Hoechst on 16 November 1936. In that meeting the discussion is to the effect that since synthetic rubber will be regarded as of 1 January 1937 as a sales product, the documents require no further elaboration.

We offer in evidence as Prosecution Exhibit 552, NI-4626, a letter dated 15 January 1947 from the defendant Kuehne to the defendant Ter Meer. It's quite interesting, and we ask your Honors to please turn to page 92 which is 133 of the German Book. Kuehne is reporting to Ter Meer on a conference that he had with Lieut-Col Phillips of the Army Ordnance. The first paragraph:

"I once more want to put down on paper Lieutenant Colonel Phillips' request, of which I informed you by telephone, and the discussion I had with him, since the means of understanding each other was not perfect.

"While visiting us this morning to obtain material for a lecture which he will deliver, Lieutenant Colonel Phillips inquired, why I.G.

took upon itself the risk of a second rubber plant. I replied that as far as I had understood from you the Wehrmacht had demanded such a plant."

Then further down at page 134 of the German Book:

"There must be, he said--" referring to Col. Phillips --"someone on the raw materials staff who is interested in applying pressure as regards construction of this second plant."

And at page 93 which is 134 of the German Book:

"When having the noon meal and while reverting once more to the question of the new raw-materials staff, Col. Phillipps said that the official on the raw materials staff who so irresponsibly pushes matters concerning construction of the rubber plants is Dr. Krauch."

We offer in evidence, if your Honors please, as Prosecution Exhibit 553, HI-6629 being an article by Dr. Krauch entitled "Research and Development in the Four Year Plan, and in the article he says that the solution of the problems of German synthetic and German raw-material has been for the greater part the task of the German chemists and technicians." There are some technical features there that don't warrant further discussion.

We offer next, if Your Honors please, as Prosecution Exhibit 554, NI-8833, from the files of the Reich Office of Economic Development, preparatory memorandum on the subject of the expansion of Buna. We ask Your Honors to turn to page 102, which is page 155 of the German book. At the bottom of page.

I might point out that some of these facts or the proof of some of these facts are being given in various ways. From affidavits of people connected with I.G. Farben and here is the same fact coming from the records of a government office itself. This memorandum from the government office states:

"In chronological order the expansion of the Buna production developed somewhat as follows:

"The construction of the large-scale experimental plant in Schkopau began in the early part of 1936."

Top of page 156.

"At the end of 1936 the decision was made to build the Buna plant for a capacity of 2,000 tons per month; that is 24,000 tons per year."

We offer next, as Prosecution Exhibit 555, NI-7622. It's an extract from a report from the files of one of the government offices entitled "The Rubber Production in the Four Year Plan", a detailed discussion of the history and development of the subject, and the document itself is self-explanatory.

We offer next, as Prosecution Exhibit 556, NI-7624, being a memorandum taken from the I.G. Farben files, entitled "Fundamental Aspects Regarding the Foundation of Schkopau Plant and the Buna Agreement". This memorandum is dated 17 February 1937 and we ask Your Honors to please turn to page 118 of the English book, which is 187 of the German book. In the middle of the page. This is a Farben memorandum:

"A large plant which, in addition to Buna, would in the course of time undertake the manufacture of other products was therefore planned from the beginning."

The other products I lay emphasis on at this time.

"Besides the necessity of acquiring favorable industrial sites for the fulfillment of the tasks which had hitherto been carried out mainly in Rhineland plants, the decisive factor was the technical aspect of the creating of an economic union between the Buna plant on the one hand and the other factories in the field of inorganic and organic chemistry on the other."

Now, the purpose of emphasizing this at this point is again to indicate that the production program was not isolated. There were other products which related directly to rubber and there will be shown later on, by oral testimony and documents, as I have indicated, a connection between the expansion of the rubber production and the production of explosives and poison gas.

We offer next in evidence, as Prosecution Exhibit 557, NI-4711, a letter from Farben to Goering, dated 15 June 1937, pledging support for the establishment of Buna plants within the Four Year Plan. At page 124 of the English book, which is 196 of the German -- the letter, incidentally, is written by the defendant Ter Meer to Goering, 15 June 1937:

"We are willing also to sign contracts of license, each for the period of ten years, with further Buna plants to be established within the Four Year Plan."

And then, a little further down, the next paragraph, there's reference to reimbursement for experimental costs for three million marks, and on the next page, 197 in the German book, at the top of the page:

"This consent to put our patents and 'know-how' at the disposal of the new plants referred to, by renouncing profit, can only be justified from the point of view of the Four Year Plan."

We offer next in evidence, as Prosecution Exhibit 558, NI-6343, a letter of the same date from the defendant Ter Meer to Goering, on a related subject. At page 126 of the English book, page 199 of the German book, it refers to the Buna contract and experimental cost. The

second paragraph:

"We have declared ourselves in agreement with this arrangement, although from 1935 to 1 July 1937 we have incurred experimental costs totaling over 7 million RM in conjunction with the intended construction of a major plant and although, judging by the present situation and our estimates for the future, the current experimental and development costs will, for a number of years, considerably exceed a yearly total of 3 million RM. This will hardly be less than 5 million per year."

We point out the tremendous sums that Farben incurred between the period 1935 to 1937 in experimental work for Buna.

NI-6108 is already in evidence as Prosecution Exhibit 347. It is the basic agreement in connection with one of the subsidiary companies of Farben, Chemische Werke Huels, dated 19 May 1938, and the document establishing the fact of the arrangement and operation of the Huels plant.

We offer in evidence, as Prosecution Exhibit 559, NI-7769, an I.G. Farben report of 22 March 1938 with respect to the Buna work Huels. At page 136, if Your Honors please, which is 213 of the German book, second paragraph:

"Earlier price calculations show a superiority of the electrical arc process proposed for Huels as compared with the carbide process used in Schkopau, which superiority is based mainly on the possibilities of developing and utilizing the by-products obtained in this process, chiefly soot. This superiority makes it advisable to place the Huels Works on a private economic basis only and to avoid guarantees by the Reich as much as possible. Therefore, an absolute guarantee of purchase and price should be demanded from the Reich."

The point of that, as Your Honors will note, is that Farben draws a distinction between the cases when it will undertake its own financing and cases when it will take government financing, and they make the distinction themselves as to peacetime use and the possibilities of postwar use and uses which have no such similar relevancy.

At the bottom of 136, page 214 of the German book, the report about

Huels, and this is March 1938:

"The production volume has only slightly deviated from plans hitherto existing. Only the Oxol L. (mustard gas) quantity proposed so far has been reduced by the Army Ordnance Office from 9,600 to 7,200 tons per year. Instead the production of 2,400 tons per year of D.L., which is Direct Lost, mustard gas, "is intended."

The date is significant. The references to poison gas and the connection with the Buna Works Huels, March 1938.

The next page, 137, which is page 214 of the German book, at the top, I call Your Honors' attention to the note in the margin under "Main Products". That lists various products: Buna S, Diglycol, which Your Honors will later see is an explosive and also used in poison gas, Oxol I, poison gas, DL, poison gas, and the note: "Only in case of mobilization". An I.G. Farben record.

Further down on the page, right after the figures - that's 215 of the German book:

"At the same time, 10,400 tons per year of ethylene" — ethylene, Your Honors will later see, is used in connection with the production of poison gas — "and 33,500 tons per year of chlorine (in the case of mobilization only) will be produced as intermediates."

And they're talking about the Huels Buna plant.

At page 138, page 216 of the German book:

"It is a matter of course that the establishment of such extensive power plants for the case of mobilization involves considerable expenditure, which will have to be kept low by the utmost utilization possible in time of peace. Such opportunity, however, cannot be expected at once, but only after several years, when a market has been established for the ethylene oxide produced in the stand-by plants, or for another ethylene product, or for chlorine and caustic potash lye respectively."

These products are used in poison gas and the reference is to stand-by plants.

At the bottom of 138, which is 217 of the German book:

"It is intended to operate the D.L. plant" -- that is the Direct Lost Mustard Gas plant -- "for a very short time only, namely, for such length of time as is required to obtain experience for the operation of such plants. This plant's consumption of ethylene is negligible; its chlorine requirement amounts to approximately 1300 tons per year."

This, if Your Honors please, finishes Book 28, the first book on the rubber program.

Book 29, if Your Honor please, still dealing with rubber.

We offer in evidence, as Prosecution Exhibit 560, NI 5892, being the minutes of a meeting of the technical management at Hoechst, 30 May 1938, where Dr. Straus gives a report about the Buna plant. The minutes are self-explanatory.

We offer in evidence, as Prosecution Exhibit 561, NI 6341, which is copy of a contract, dated 15 June 1938, between Farben Buna Werke and the Reich Office for the Monopoly of Alcohol, regarding the production of alcohol. The contract is executed on behalf of Farben by Ambros. The contract itself is self-explanatory. We call attention to the product referred to, alcohol, and in connection with our oral testimony, the significance of alcohol will be further explained.

We offer in evidence, as Prosecution Exhibit 562, NI 7472, a memorandum from the files of the Feldwirtschaftsamt, the Reich Office of Economic Development. It's a secret report on the cooperation of the army in the development and experiments in regard to synthetic rubber. It's dated 1938. This is the army version of what transpired in the production program.

At page 4, if your honors please, of the English book, page 30 of the German, in the middle of the page, page 130 of the German. It's the army version:

"It was only after the revolution in 1933, however, when the initiative of the Wehrmacht intervened, that the experiments received the desired impetus - above all, in the field of the processing of synthetic rubber. Without delay, the I. G. Farben industry at first took up the continuous technical production of butyl glycol. Then followed, singly and together, the developments of the technical units for butadiene oxides, the technical developments of copolymerisation and the whole technical development of rubber. The contracts concluded between the I. G. Farben Industry and the firm Continental once more assumed importance."

The offer was in evidence, as Prosecution Exhibit 563, NI 4717, a letter from the defendant Ter Meer to the Under Secretary Minister Frickmann, 11 October 1938. It's a letter, if Your Honors please, which is quite significant in our opinion and we ask your Honors to turn to page 11, which is page 34 of the document book. The date, quite important, 11 October 1938, less than two weeks after the Munich Pact. In the middle of the page under "Buna Production in Germany", the last sentence of the paragraph. Ter Meer to State Secretary Frickmann of the Reich Economic Ministry.

"I therefore requested you, not to allow the building of the Buna factories, to be completely or preponderantly influenced by military interests, now that immediate danger of war has been removed.

"Apart from the second step in the development of Buna Works No. III I am particularly thinking of the location for Buna Works No. III. Due to the great stress put on military considerations, it has been proposed to locate it in Fuerstenberg, which location is unsatisfactory from several points of view. A better industrial site examined and proposed by us in Deschowitz (Upper Silesia) could not be considered until now because this area was considered as a troop concentration area against Czechoslovakia. Since the political tension has been removed, the Deschowitz location is again being considered."

Toward the close of the letter, Dr. Ter Meer says:

"I took the liberty today to inform Dr. Franch briefly about these discussions concerning the location of Buna."

As I indicated, the date is significant. Less than two weeks after the Munich Pact. It indicates, we submit, knowledge of the aggressive aims with respect to Czechoslovakia, and we think it would be an appropriate point at this time to ask your Honors to take judicial notice of the findings of the International Military Tribunal with respect to the planning and the aggression against Czechoslovakia. It's the dates that seem to us to be important and they have significance

when related to the facts of history as found by the IMT. On page 196 of volume I of the Official Edition of the IMT, the Judgment of the International Military Tribunal, under the section "The Seizure of Czechoslovakia":

"On 31 August 1938..." This is from the judgment --

"....Hitler approved a memorandum by Jodl, dated 24 August 1938, concerning the timing of the order for the invasion of Czechoslovakia and the question of defense measures. This memorandum contained the following:

"Operation Brube will be set in motion by means of an incident in Czechoslovakia which will give Germany provocation for military intervention. The fixing of the exact time for this incident is of the utmost importance."

This is the IMT speaking:

"These facts demonstrate that the occupation of Czechoslovakia had been planned in detail long before the Munich Conference."

The Court then proceeds to discuss the Munich Conference and the circumstances surrounding it and, at page 197 of the opinion, appears this:

"That Hitler never intended to adhere to the Munich Agreement is shown by the fact that a little later he asked the defendant Keitel for information with regard to the military force which, in his opinion, would be required to break all Czech resistance in Bohemia and Moravia. Keitel gave him his reply:"

And this is a coincidence merely.

"...on 11 October 1938. On 21 October 1938, a directive was issued by Hitler and counter-signed by the defendant Keitel to the armed forces on the future tasks which stated:

"Liquidation of the Remains of Czechoslovakia. It must be possible to smash at any time the remainder of Czechoslovakia if her policy should become hostile towards Germany."

It might be well to recall to Your Honor, in a document that I previously introduced I referred to an expedition that took a tour in October and November, 1938 of the Sudetengan. The dates, I believe, are significant.

NI 6142....

DR. HERMOT (Defense Counsel for the defendant Dr. Meer): Mr. President, the prosecutor referred twice yesterday to excerpts from the first Tribunal here in Nuremberg and that is the official edition of that Court. May I state here that none of the defense counsels has an official edition of this judgment, but since the opinion of this court has been referred to several times in the course of this trial, I think it is quite necessary that each of the defendants and the defense counsel should have one copy of this opinion.

MR. SPEAKER: Your Honor, this question has been taken up informally before with defense counsel and I have called the library and found out that copies in the German are available, and I also suggested to Mr. Gierliche, who had taken the matter up with me, that since he and several other of the defense lawyers read English fluently that they were, at any time, free to call upon me for my personal copy in the English language. But I just wanted to say that the library is available to the defense administrator and I am certain that defense counsel can obtain a copy if they require it.

I have just been asked by Dr. Herndt in German when he will get his copy and I don't know because I don't know who, on behalf of the defense counsel, has contacted Mr. Harting of the Library. Mr. Rudolf Weiss, the head of the Library, stated that copies in the German are available and that's as much as I can do, Dr. Herndt.

DR. HERMOT: That should take care of the matter.

THE PRESIDENT: Thank you, gentlemen.

MR. ANCHER: NI 6142 is already in evidence as Exhibit 348 and appears in Book 13. It's the minutes of the board of Chemische Werke Fuels, dated 15 November 1938. Some references to it might be instructive.

Page 24 of the English book, page 48 of the German book, at the top of the page, the date 8 November 1938. Present: Ten Meer and Ambros.

The next page, 25, which is page 49 of the German book, under III:

"Dr. Ten Meer reports on the state of negotiations with the Reich and the contents of the contracts, the conclusion of which will take place in due course. The money requirements, after the extension of the plant to provide for a capacity of 30,000 tons of Buna per year instead of the originally intended 15,000 tons of Buna per year are estimated at 130 millions for the construction, 10 millions for the running of the plant.

THE PRESIDENT: Pardon me, counsel, I believe that you overlooked Document NI 7668.

MR. NEWMAN: That's correct and I think I'll refer to it right after this.

Thank you for calling it to my attention.

THE PRESIDENT: Very well.

MR. ANCHAM: Page 26, page 51 of the German book in the middle of the page, still the minutes of this meeting:

"Dr. Bahl states that a loan agreement with the Army Ordnance Office is in preparation for the Ethylene Oxide plant and that full employment will be guaranteed." It is the Ethylene Oxide plants we are calling attention to at this point.

We offer in evidence as Prosecution Exhibit 564 NI-7668 being an interrogation of the defendant, ter Meer.

DR. BERNDT: Mr. President, Dr. Berndt for the defendant, ter Meer. I object against using this document. The document is not held in the form of an affidavit. It is not a statement in lieu thereof, and I cannot see from this document at all that the defendant, ter Meer, had it pointed out to him that he might refuse to testify, for this is a testimony which might be used against him. Therefore I object to the use of this document.

MR. STRECHER: The whole of the interrogations of the defendant, ter Meer, were conducted after he had taken the oath, and I think this is one of the very few which doesn't indicate in the first sentence that I reminded the defendant that he was still under oath. However, even so, he was under oath during this period and that appears from time to time.

Your Honor, had that not been so, we still feel that this is in the nature of an admission by a defendant and that the rule concerning oaths does not apply.

THE PRESIDENT: The Tribunal does not regard the question as to whether or not the defendant was or was not under oath as material with respect to the admissibility of this document. It has been the consistent ruling of the Tribunal that statements of defendant are admissible if they have probative value and unless there is a showing that the statements are not authentic or were obtained under duress. In line with the former announcement of the Tribunal's policy in that regard, the objec-

tion is overruled.

MR. AMERMAN: This interrogation of the defendant, ter Meer, if Your Honors please, relates to some technical matters in connection with the process for the production of buna which I do not intend to go into, but there is one significant part at page 18 which really merits attention. It is page 42 of the German book, and in this portion of the interrogation the defendant, ter Meer, is being asked to tell the difference between production as respects synthetic gasoline and synthetic rubber. There is an important point being made here which we should like to bring out. In the middle of the page where the question begins, "That makes it perfectly clear."

"Q. Now in the first investments for the production of synthetic gasoline you were able to use at least to a certain extent your production installations which saved you considerable new investments. But in the case of the production of synthetic buna, you could not avail yourselves of such installations which were already in your possession but you had to build up entirely new production facilities?

"A. Yes, that is right.

"Q. So in the case of synthetic gasoline production which was initiated by Dr. Bosch, it was not exactly too much of a financial venture to start a new unknown production on a large scale. In the case of buna rubber it was different?

"A. Yes, that is right.

"Q. Because here——" meaning buna——"you could not avail yourselves of any industrial facilities which were already in your possession but you had to make entirely new investments for the entire new production plants?

"A. That is quite right. At any rate, it is quite right for Schkopau and Huels, whereas at Ludwigshafen in the Third Buna factory we used a raw material methanol and this methanol was already manufactured at Oppau.

C. But even in Ludwigshafen you saved only about—

"A. I would say one-sixth of the whole investment."

The point of that, as Your Honors can very readily see, is that the risk financially with respect to undertaking the production of buna rubber was by far greater by his own admission than the risk in undertaking the production of synthetic gasoline and yet Your Honors recall that with respect to synthetic gasoline they had already in 1933 sustained losses of 336,000,000 Reichsmark, and buna rubber being more risky, they embarked on it.

MI-6145 is already in evidence in Book XIII as Exhibit 349. It is a contract executed 13 March 1939 between Farben and executed on Farben's behalf by defendant, for fear, the Reich Minister of Economics and the Reich Minister of Finance regarding the Huels plant, page 23 of the English book which is page 53 of the German book. It is dated 22 November 1938. It is the contract, the introduction of which I think is quite interesting.

"Herewith the Reich concludes simultaneously with Huels I.G. and Hibernia an agreement for the financing of the buna plant II to be set up by Huels in Karl. Subsequent to this buna plant the setting up of an additional plant, which is to be supplied with Ethylene from the buna plants, used for the manufacture of Ethylene from Hydrocarbon must, therefore, be enlarged from the start."

And the additional recitals in the preamble keep referring to Ethylene as a constituent part with respect to that production.

On page 29 which is 54 in the German book again the point is made of the interrelation between Ethylene and buna.

"The cross-section enlargement will be carried out within the framework of the economic development." And this is a clause which appears in most contracts. I haven't referred to it before and that is why I refer to it now.

"The management of the enterprise will always keep this basic thought

in mind and, in particular, run the works according to the principles of National Socialist world ideology. The same principles are to be applied to the formulation, fulfillment and interpretation of this agreement, whereby consideration should be given, in particular, to the purpose and economic import of the agreement within the scope of economic development, the development of economic conditions and national ideology.

"Under the above mentioned conditions the following is agreed upon:--"
The clause, as I say, is in every one of these contracts.

We offer in evidence as Prosecution Exhibit 565 MI 6109, a copy of a contract between Chemische Werke Huels, March and April, 1939, with respect to the Huels plant, as proof of the fact that we alleged. The contract itself doesn't merit reading orally.

We offer in evidence as Prosecution Exhibit 566 MI-6143, a letter from the bank to Chemische Werke Huels, concerning a credit of 15,000,000 marks for the construction of the plant, part of the financial arrangements in connection with this operation. The letter itself doesn't require any further comment.

We offer in evidence as Prosecution Exhibit 567 MI-6139, a letter from the Reich Minister of Economics to Huels concerning sales guarantees. Again this is a matter of detail in connection with the production program and the document itself is explanatory.

6505 is already in evidence as Prosecution 344, and we can pass that.

We offer in evidence as Prosecution Exhibit 568 MI-6344 being an amendment to the contract between I.G. and the Reich Ministry of Finance relating to the Schkopau plant. Page 52 we think is interesting, page 95 of the German book. It is the preamble that we are calling attention to. The contract is already in evidence previously.

"In the interests of economical reconstruction and in accordance with the wishes of the Reich the I.G. have constructed at Schkopau a major plant with a production capacity of 30,000 tons per annum for the manufacture of synthetic rubber. Buna Works G. m. b. H. were founded at Borsburg for the

purpose of execution the project."

And then again the recitals go into some of the details of that.

We offer in evidence as Prosecution Exhibit 569 NI-7238. It is a copy of a secret meeting of the Commission "K". It is 23 October 1941. That is in the description in the index where they are discussing the Auschwitz plant, on page 57 which is 104 of the German book. I am calling attention to the persons present at this meeting, ter Meer, Wurster, Lautenschlaeger, Kuchno, Kuergin, and the purpose for calling attention to that is that all at that meeting are being told about the plans in connection with the construction of the buna plant at Auschwitz.

We offer in evidence as Prosecution Exhibit 570 NI 7972, a letter from I. G. Farben to one of the public officials of the Reich with respect to price fixing of buna. It is in September and July of 1942. It is a matter of detail. The letter is self explanatory.

We offer in evidence as Prosecution Exhibit 571 NI-8474, again the minutes of the meeting of the I. G. "K" Committee, 8 June 1942, stating that 575,000,000 marks credit have been spent by I.G. for buna and plastic, and the defendant, ter Meer, makes an interesting statement. We turn to page 70 which is 119 of the document book. Again we call attention to the people present, ter Meer, Wurster, Lautenschlaeger, Kuchno, Kuergin, and at page 73 which is 124 of the German book the chairman who was Dr. ter Meer closes the meeting by summarizing the important development which have taken place during the last year in all fields of the "K" Commission.

"In spite of all difficulties, the ever-increasing production of I. G. in the field of buna and plastics will continue also in the future to play a decisive part in meeting the huge war requirements."

We offer in evidence as Prosecution Exhibit 572 NI-6123. It is an unsigned copy of a memorandum found in the I. G. Farben files. It is dated 23 April 1941, page 74, page 125 of the German book. The second paragraph:

"The whole of the business conducted in this building---"I. G. Frankfurt, ---"must, with greater part as vital for the outcome of the war.

From the distribution of buns and articles ranging from synthetics, preliminary products for the explosives industry, detergents, substitute tanning agents and all chemicals essential for the carrying on of the war, right down to aniline dyes, which are used almost exclusively for the indirect and direct needs of the Army, there is not a single branch which does not make its contribution to the war machine."

At page 126 of the German book and at the bottom of page 74, although this is 1941, what I am about to read, is a recital going back to 1939.

"When the undersigned Betriebsfuhrer—" We probably could figure out who the Betriebsfuhrer for that place was. "When the undersigned Betriebsfuhrer visited General Stieler von Heidokampff in Lassel in the Spring of 1939 to request his support to ensure also in time of war the personnel necessary to maintain the strength of this powerful concern, he expressed the opinion that insofar as it was possible, they would try to make exemptions, and so on, their own documents in the Spring of 1939 asking for support in the time of war for deferments and the use of personnel, and so forth.

NI-6194 is already in evidence as Prosecution Exhibit 97. It is filed from one of the German agencies, rubber supply in wartime, dated March, 1941. Page 77, 133, merits calling attention to. We had this document before, but it emphasizes certainly from the military end, this being a report from one of the Military Government offices, and the first sentence.

"Rubber is one of the most important raw materials of the entire military and war economy."

The next document, 3316, is already in evidence as Exhibit 542. We had it yesterday in Book XXVII in connection with gasoline. It is an affidavit by Dr. Struss wherein he states:

"It would not have been possible to carry on the War for several years without I. G.'s buns."

With that, if Your Honors please, we conclude at present our presentation of the documents in connection with rubber. We prepared to

proceed with respect to light metals, and if Your Honors consider it appropriate, this might be the time for the recess when we can go ahead with light metals.

THE PRESIDENT: Very well. Before the recess, the Tribunal feels it is justified in reminding Counsel for the Defense of the understanding that we had that a minimum of eight members of Counsel would be present during sessions of the Tribunal. We trust that you will communicate with your brethren and arrange so that it will not be necessary to speak of that matter again.

The Tribunal will now rise for its customary afternoon recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Prosecution may proceed.

MR. AMCHAN: If Your Honors please, we are about to start on Document Book 30, dealing with light metals -- or sometimes referred to as electron metal.

NJ-7123 is already in evidence as Exhibit 90, in Book 5. It is a memorandum of 15 September 1933 concerning discussions in the Reich Air Ministry between officials of the Air Ministry and the Army Ordnance. State Secretary for Air Milch is present with Gen. Bockelberg of the Army Ordnance, and they are discussing plans for the creation of the Luftwaffe.

Page 2, which is page 2 of the German book, at the top of the English page 2: "State Secretary Milch expressed his agreement with the proposals to bring in new firms for the manufacture and especially approved the installation of a new tube rolling mill, of the enlargement of production at Bitterfeld" -- I.G. Farben's Bitterfeld-- "and of a new electron metal finishing plant on the basis of Magnesium-chloride."

The next paragraph, which is on page 3 of the German, and this is a discussion between -- as appears on page 1 -- top officials of the Army Ordnance WA and the top officials of the Air Ministry. Farben is not present here.

On page 2, of the second paragraph: "With regard to the very high replenishment requirements in electron metal bombs, it was pointed out on the part of Army Ordnance that the manufacturing preparations would presumably necessitate the erection of a number of new electron metal works and probably even new electric power plants which could not be maintained by peacetime orders."

Your Honors will recall we indicated yesterday that many times we will bring minutes of a conference at a high

military level although Farben isn't there--and then there will be subsequent evidence of performance by Farben, which seems to coordinate one way or another--but performance. It seems to be in line with the planning as shown by these minutes at high levels.

Further down, on page 2, which is page 3 of the German, "State Secretary Milch"--of the Air Ministry--"requested that Ordnance should examine whether another metal with a basis of German raw material could not be used instead of electron metal for the incendiary bombs."

"For the safeguarding of replenishments in explosives for the C-bombs, L.M."--that is Luftwaffe Ministry--"declared its agreement with the stockpiling" -- this is 1933, September-- "Tri. and Toluol." And "for the expansion of the Toluol basis further steps should be initiated by the Luftwaffe Air Ministry and Reich Ministry of Economics as soon as possible in conjunction with the new order for fuel oil economy."

And, as Your Honors pass down to No. 3, which is on page 4 of the German book: "The Securing of Fuel Oil." You see at this point the relation between the fuel oil program and the building up of the Luftwaffe:

"Securing of Fuel Oil: State Secretary Milch handed to Lt. Gen. von Bockelberg a memorandum of the I.G. by Dr. Krauch concerning the expansion of the home raw materials basis, and suggested a joint energetic approach to the competent agencies in this matter. It would be necessary to appoint a commissar for carrying out the necessary steps."

"Lt. Gen. von Bockelberg promised execution of the memorandum and joint action."

NI-B317 is already in evidence as Exhibit 98 in Book 5. It is an affidavit by the defendant Struss concerning Farben's construction of secret magnesium plants for

the Luftwaffe. At page 5 -- which is page 6 of the German book -- "I.G. was the first industrial undertaking to develop the industrial production of magnesium. In 1927 I.G. started its actual production of magnesium in its Bitterfeld plant. The yearly capacity of the plant was 1,500 tons in the beginning and from 1935 onward, 4,000 tons."

Then Dr. Struss says: "In 1933 I.G. received from the Luftwaffe the order to build a magnesium plant with a capacity of 12,000 tons a year. The Luftwaffe selected the site in Aachen. The plant and its production was to be kept secret by order of the Luftwaffe."

"The negotiations for the construction of the plant by I.G. were carried on between the Luftwaffe and Dr. Pistor of Bitterfeld. Subsequently, Dr. Pistor received from Schmitz" -- the defendant Schmitz -- "a kind of blank approval to carry on with the negotiations. This procedure was not usual at that time. The financial arrangement with the Luftwaffe had already been made before the project was submitted to the TEA" -- that is the Technical Committee. "After negotiations had already been carried on so far, the financial part had been settled and Schmitz's approval had been obtained, the TEA could not very well refuse to approve the building of the plant and the final arrangements even if it had wanted to do so."

That brings the TEA in to approval of the Aachen plant.

"The total investment for magnesium and aluminum in Aachen" -- secret plant -- "amounted to about 46,000,000 marks; and for magnesium alone it amounted to 40,000,000 marks. I.G. furthermore obtained a special concession from the Ministry of Finance..." with respect to depreciation, and so forth.

We offer in evidence, as Prosecution Exhibit 573, NI-4497. It is a copy of the agreement between the Reich

Armament Ministry and I.G. in June 1934 With respect to the Aachen plant. The agreement is selfexplanatory.

We offer in evidence, as Prosecution Exhibit 574, NI-4496. It is the agreement with respect to the Stassfurth plant. It is dated 1936, and we ask Your Honors to please turn to page 15, which is page 19 of the German Document Book. 23 June 1936. The second paragraph containing the recitals. It is a letter from the Reich Air Minister to the management of I.G. Farben at Frankfurt;

"In order to guarantee Wehrmacht requirements of Hydronalium E, I.G. which has for this purpose already established the plant at Aachen as a result of a contract dated 13 and 14 June 1934 with the Reich, represented by the Reich War Minister, is going to erect another factory at Stassfurt for the production of 340 tons of crude metal per month..."

Further down, on page 15, which is on page 20 of the German book, the Air Ministry writing to I.G. Farben:

"I confirm that the plants mentioned are constructed on my request and for my special purposes to cover a certain additional demand and that, when Wehrmacht orders are being distributed to the various Hydronalium plants of I.G., the economic interests of your main plant at Bitterfeld shall be taken into consideration provided no special arrangements are required in the interests of home defense."

"Furthermore, I confirm that the new plants imply an increased risk for I.G. In compensation of this risk, I shall..." and then certain details of financial arrangements.

We offer in evidence, as Prosecution Exhibit 575, NI-5936, being a letter from I.G., Dr. Buhl, referring to the "formation of an association for the coming utilization of patents of German light metals." It is December 1934. The date is December 1934. Pooling arrangements with respect to

patents for the production of light metals. The letter is self-explanatory.

We offer in evidence, as Prosecution Exhibit 576, being NI-4926, a letter from I.G. to the Reich Air Ministry advising them that I.G. and other firms of the Light Metal Industry have concluded a patent partnership agreement, as desired by the Air Ministry.

May we refer to page 26 of the English book, which is also page 26 of the German? This is I.G. Farben writing to the Reich Air Ministry.

"We have the honor to inform you, on behalf of the firms named below, that, in accordance with the request of the Reich Air Ministry, we have formed a patent combine with the above-named firms for the manufacture of intermediate products out of alloys based on aluminum and magnesium for the purpose of aircraft construction." To the Reich Air Ministry.

We offer in evidence, as Prosecution Exhibit 577, NI-5935.

It is the agreement with respect to the pooling of patents, the patent partnership referred to in the previous document. It is dated 22 December and further establishes the fact of the pooling of these patents.

We offer in evidence, as Prosecution Exhibit 578, NI-7285.

It is a letter from I.G. at Bitterfeld to the defendant Ter Meer advising him of a conference which, I.G. attended at the Reich Air Ministry on 6 February 1935. It is interesting: I.G. is competing with some other firm for the business of producing magnesium. A copy of this letter, as Your Honors will note on page 33 of the German book, which is page 37 (of the English), went to the defendant Kuehn. It appears in the center of the page, at the bottom of page 33, where the enclosure on the notes of this conference that the Reich Air Ministry took place; page 39 of the German book, appears the following.

"I also mentioned that Col. Loeb, with whom I discussed the matter, had told me on 16 January that he did not know about an order having been given to some other firm; that he, however, was not in charge of the department any more. I mentioned that Dr. Knauch had been told in an interview with Gen Liese" -- February 1935-- "arranged in December on recommendation of Geheimrat Bosch, that nothing was known about an order having been given to Wintershall--" the competitor firm. "I said that I, some weeks ago, approached Gen. Kesselring, as the gentlemen present know, but that I had been told by him that he too knew nothing about the order having been given to Wintershall.."

Further down, on page 34, which is page 40 of the German book. This is Farben talking about this conference:

"Then I --"the Farben representative --"pointed out that we not only had acquired great merit for developing the electron metal, but

that we, and none other, had developed a safe process for filling the textile cylinders for incendiary bombs, quite different from the methods previously used, which had left much to be desired."

February 1935.

We offer in evidence, as Prosecution Exhibit 579, NI-631. I might mention that with respect to 1165, which appears on the index that already is in evidence as Exhibit 107 in Book 5, that relates to the Stassfurt plant, and a proposed letter from Ferben to Gearing advising them that as a stand-by plant certain steps have to be taken to put it in readiness. That letter establishing knowledge again of the stand-by plant and the initiative calling attention to Gearing's office. Steps have to be taken to put in in readiness.

Exhibit 579, NI-6631, is a publication by Dr. Neukirch, who is an official in the Reich Office for Economic Development, on the subject of magnesium, the German non-ferrous metal in the Four Year Plan.

Page 41 of the Document Book, which is page 53 of the German Book. This article describes the history and growth of this particular industry; and at the top of the page 41 the author makes this statement:

"The most authoritative work of development in this direction had been performed by G. Pistor and his collaborators."

Your Honors have met Mr. Pistor's name, as a member of the Vorstand at Bitterfeld and your Honors have also had called to your attention the fact that the defendant Burgin was one of his collaborators and succeeded Pistor when he left.

"Further research and production which had been fostered especially in Germany led to the present-day possibility of manufacturing magnesium and its alloys at prices comparable to those of the other light metal alloys, a progress expressed by the increase of the total capacity of magnesium production, not only in Germany but in the whole world."

We offer next in evidence, if your Honors please, as Production Exhibit 580, NI-2725, a statement by the defendant von Schnitzler with respect to electron-metals in I. G. At page 47 which is page 61 of the German book, in the first paragraph the defendant von Schnitzler states among other things:

"I said that once I had taken back from Bitterfeld the impression that the man being charged with the handling of the magnesium business had been extremely pushing to a more extensive use of magnesium in the alloys destined for the Luftwaffe."

And down at the bottom of the page, which is at the bottom of page 61 of the German book:

"Thus, only the enormous expansion of the Luftwaffe offered the long expected possibility for the manufacturing of electron-metals on a large scale."

He directly ties in the expansion of the electron-metals to the development of Goering's airforce.

We offer in evidence as Prosecution Exhibit 581, NI-6483, being a letter from the Reich Air Ministry to I. G. dated 7 September 1938 relating to the construction of a second plant for magnesium and aluminum alloys. The letter itself is self-explanatory.

As Prosecution Exhibit 582 we offer NI-6484, a letter from I. G.

Bitterfield to Dr. Suhl dated 4 October 1938 with respect to the same project, the conclusion of another plant for aluminum and magnesium.

For Prosecution Exhibit 563 we offer NI-9204, an affidavit of Karl von Heider, an official in the Farben establishment, in which he describes the financial practice, which he calls "tonnage guarantees" granted to I. G. by the German government from 1933 to 1945, page 56 of the English Book and page 74 of the German book; in the middle of the page, "Introductory Note."

"Contracts by which the buyer guarantees to buy a fixed tonnage over a period of some or many years are usual in trade wherever a commodity, has no sufficient market except if the buyer's requirements are included. Obviously that is the case for products used only or mainly for war purposes as the Government is the only or the main buyer. In products asked for by the Government I. G. had the policy to run a sound commercial risk wherever such a product might also be used for peace consumption, and to erect the manufacturing plants on I. G.'s own expense as far as no extraordinary costs due to war conditions were involved. Such extraordinary costs were charged to the Government by special agreements containing a clause that reimbursement of such costs ought not be regarded as government subsidizing of I.G. As far as no peaceful consumption was to be anticipated I.G. declined any financing of plants and made agreements by which I.G. was to construct and build the plant at the expense of the Government, and was to operate such a governmental plant on terms practically affording I.G. no, or a very restricted, profit. In such cases contracts guaranteeing a sales tonnage were obviously not needed as the Government was plant owner and last buyer simultaneously.

The following report comprises only the main products supplied, directly or indirectly, to the Armed Forces, i.e. synthetic rubber, light metals (magnesium, aluminum) and their alloys, gasoline, diglycol, acetophenone, stabilizers, high octane gasoline, lubricant oils, and is based on the contracts available in the Legal Department Chemicals.

For these products the Reich or its agencies were found to have been guaranteeing a stipulated sales tonnage in the following cases:"

and then he enumerates in detail the particular cases and the particular products in which the Reich Government guaranteed the tonnage sale.

DR. HOFFMANN: Your Honor, --

THE PRESIDENT: Will Counsel give his name and who he represents for the record.

DR. HOFFMANN: Dr. Hoffmann, counsel for the defendant von der Heyde. Your Honor, the Tribunal will probably recall that in the very beginning of these proceedings I pointed out that free witnesses were applied for by me after I had been appointed as a defense counsel. Among these witnesses was Carl von Heider. This application of mine was submitted on 2 July. Upon request of the Tribunal I have concluded a memorandum in which I pointed out that according to the practice as it was applied during the medical trial free witnesses are to be at the disposal of the party who names them first. Karl von Heider is a free witness and I stated his address. I would now like to ask that this exhibit be withheld up to such time until the Tribunal has decided who can dispose of that witness. After I apply for a witness he can only be of full value for the defense if I can actually bring him here but as an affidavit in the meantime has already been submitted by him I can no longer consider it as being a proper witness for me. If the Tribunal please I can explain further when and under what circumstances I mentioned the witness and his address. I did that in my memorandum which I think is at the disposal of the Tribunal providing it's translated. Now I merely want to object to the admission of this document.

THE PRESIDENT: For the information of counsel for the defendant I may say that the Tribunal at the last intermission, less than an hour ago, approved the summoning of all of the witnesses with respect to which we have had applications from the defense to this extent; that we authorized their interrogation and the submissions of interrogators to

them. We did not formally order the production of the witness before the Tribunal because we felt that might be premature and involve some administrative problems. If the approval of the application to which counsel refers so as to authorize interrogation and questioning will meet your present situation, it has very recently disposed of it and you should in due course this afternoon or tomorrow receive the official notification.

DR. HOFFMANN: Perhaps I didn't make myself too clear; this witness which has perhaps just been granted to me by the Tribunal, Karl von Heider has previously been interrogated by the prosecution and has submitted an affidavit here that I think means that part of the weight of this witness is being taken away from me and that is exactly to what I am objecting -- if we name a witness I have to present it and the prosecution has the privilege of cross examining him.

THE PRESIDENT: The Tribunal perhaps has been derelict because of a sense of uncertainty as to what the proper procedure was under such circumstances. Before the Tribunal was constituted the Presiding President of the Tribunal as a whole and made some rulings and for a time we were disposed to follow that precedent until we had some discussion with representatives of counsel for the prosecution and the defense. So far as the future is concerned, upon the proper application the Tribunal will be disposed to grant the right of questioning and the submission of interrogatories and withhold only the physical production of the witness until such time as he may be needed. Now, as to whether this defendant's situation has been embarrassed by the Tribunal's delay in acting upon the application we can only say, in any event, it's a past incident which we cannot recall. The Tribunal is not inclined to feel that the defendant can be too seriously affected by the fact that an affidavit of one of its prospective witnesses has been introduced by the prosecution because upon a proper showing you shall have full opportunity to produce the witness and to cross examine the witness with respect to the affidavit and if you so desire to make him your own

witness for your own purposes. And, I may say, that the field of inquiry is somewhat broader in cross examination than in examination-in-chief and the unfortunate situation might be to counsel's advantage. In any event, we can only say that in the future we will undertake to act on these promptly since we think we now understand the proper procedure and for what inconvenience counsel may have been subjected because of the delay of the Tribunal in passing upon this matter, it is something beyond our present control.

DR. HOFFMANN: Even at the risk that I am taking up the time of the Tribunal may I, at the same time, point out that the defense in their turn is not in a position to hear a witness of the prosecution and get an affidavit from a witness of the prosecution before the prosecution has interrogated that witness themselves. Up to this time it has not been the practice that a witness of the defense once he has already been named was heard by the prosecution.

THE PRESIDENT: That's a matter of some novelty so far as your President is concerned. Certainly we should like to hear the matter discussed more fully and have the opportunity to confer among ourselves before we would express a policy in that regard and in due time at some convenient period we will be very happy to hear the matter discussed by the respective counsel and that in the meantime will afford us an opportunity to confer about it. Would that be sufficient for the time being?

MR. SPRECHER: Your Honor, may I be permitted a few words in view of one or two of the representations made? I think it may be of assistance to you in your consideration concerning this point and I do think that from the by-play of the conversation I have gotten while Dr. Hoffmann has been making his objection, there's rather strong feeling on this point by a number of defense counsel. May I have your permission?

THE PRESIDENT: Certainly.

MR. SPRECHER: Now, the history of this entire matters of whose

witness certain people are has never played very much of a role so far as the representatives of the prosecution on the I. G. Farben staff are concerned. I am sure that a number of the defense counsel would be perfectly willing to confess certain circumstances where we have encouraged them to see some of the persons with whom we had been conducting investigations in Frankfurt or in some cases, the witnesses were brought here; the case of Dr. Struss particularly in connection with a problem which Dr. Wagner had with respect to the defendant Warster and the chart, for example. Our position with respect to all applications for interrogations or for having access to witnesses has been to agree in all cases that defense counsel may have such access as they choose but, of course, I am speaking entirely of free witnesses. Now, if we had attempted to do what I think some defense counsel have attempted to do here by some of the earlier application and we had thought the matter had died except I see it is raised again by Dr. Hoffmann but if the prosecution had attempted to do what I think some of the defense counsel wanted to do, at the time we issued the indictment we could have requested summonses of some four or five hundred leading Farben people who are in our name and index files and claimed that we wanted all these people as "our witnesses" and thereby prevent the defense from having any access thereto. Now, obviously there was never any such rule and no such rule could possibly meet with the requirements of with a full and free investigation looking toward it by anybody.

Moreover, it would be entirely impossible for us, or for anybody, to attempt to prevent these defense counsel from talking with many of their old cronies in I. G. Farben, since many of the defense counsel come from the previous legal staff of I. G. Farben, and we have never tried to make any such interference whatsoever or in any way whatsoever.

The confusion seems to come about, it seems to us, because of a rule that developed during the time of the IMT with respect to witnesses who were in jail either because they were under indictment as war criminals, because they were on the United Nations War Criminals List, or because they were detained as being in the automatic arrest category, or because they were being detained for some other reasons, and under those circumstances, the practice developed that where a particular party had requested the bringing to Nurnberg of a certain person so detained, the adverse party could not interrogate that person except in the presence of the party that had brought the person to Nurnberg, and that applied likewise to prosecution and defense. Now, in due respect to those types of witness, I may say here that so far we have not insisted that anybody from the I. G. Farben Team be present, where defense counsel have raised the point, so that they can have privacy so far as we are concerned. There is the rule outstanding, and I understand there are good and sufficient reasons therefore, that where a witness, where a person has been brought to Nurnberg who is already under arrest and there is a chance of his being prosecuted, or he is being held for certain security reasons, he may not be interrogated except in the presence of some representative of the Office of Chief of Counsel, since we sometimes owe some obligations for security reasons and because there have been occasions when counsel from the outside have attempted to deal in certain not permitted fields with persons who were in the jail.

But that's an entirely different case than this whole matter of free witnesses. Now, I may say to Dr. Hoffman that, long before he was retained as counsel in this case, the prosecution had been working

with Mr. von Heider in connection with our investigations and attempting to get the truth and if we had, thereafter, merely by serving some kind of a paper, attempted to prevent him from talking to Dr. Hoffman, we should indeed have thought we were behaving unfairly.

DR. HOFFMAN: Your Honor, I want to deal with the question regarding the witness Karl von Heider as a side line, but the question which has just arisen, namely whether any witness which was approved to the defense by the Tribunal can, at the same time, be interrogated by the prosecution after he has been so permitted for the defense, seems to me to be a basic question for the defense. Neither during the IMT or during any of the other trials in this court, and I was present at nearly all of them, at all of these trials there was no doubt that any witness which was granted to the defense, and even after the defense counsel only applied for this witness, was always reserved for the defense counsel, and was never touched by any other party in order that defense counsel himself may produce him. That was the practice which was in use ever since the IMT. I ask the Tribunal to adhere to that practice too.

As to the interrogation of all employees of the I. G., one naturally can assume the position which the prosecution is assuming that they were in a position to call all employees of the I. G. as "our witnesses", but we can see from what counsel for the prosecution has said that that practice was not employed during the IMT and quite justifiably so. At that time the prosecution also could have said: "all political leaders of the indicted organization of political leaders, all members of the SS, all of whom were in a camp, belonged to us and only after we, the prosecution, have interrogated them, the defense will have a right to do that." That certainly was not done. Certainly not, because the IMT has stated expressly that after the defense has named a witness, that witness will remain reserved for the defense, and that is why I believe that this privilege which the prosecution is trying to get now, by saying that "we could have used all em-

players of I. G., perhaps 100,000, as our witnesses and thereby achieve the priority", I think that is not proper and it was not proper during the IMT either.

THE PRESIDENT: The Chair recalls, at a very early session of this Tribunal, this question was called to its attention. We asked then that, if counsel for the prosecution and defense could do so, they confer and undertake to work out and suggest to the Tribunal a policy to be followed. Your President has some two or three times called it to the attention of one or the other of counsel. Nothing has been done until today and we did clean our desk of the accumulation of these applications.

Now, as to the respective rights of the parties to access to the witnesses, that involved a good many considerations that may call for some survey of the proceedings of the IMT or of the other Tribunals, and there does not seem to be any such emergency presented to the Tribunal at this moment that required that we, at this time, rule on it. We shall give it consideration and, in the interests of orderly procedure, as well as of the rights of the defendants, at a not too distant time we will undertake to express to counsel what our views are on this subject and to work out a procedure or policy that will not too seriously inconvenience either side.

MR. NECHAN: As Prosecution Exhibit 584, we offer in evidence NI 7240, being an affidavit of Dr. Struss relating to I. G.'s production of magnesium and aluminum. At page 61 of the document book, page 78 of the German book, the middle of the page, Dr. Struss states:

"In 1930 the Magnesium production of I. G. Farben amounted to 600 tons. In 1942 the production was 25,100 tons. Farben had thus increased its magnesium production by over 4,000 per cent.

"Farben's share in the aluminum production in 1930 was 1,750 tons and in 1942 it was 24,000 tons. The increase in Farben's aluminum production was therefore just over 1,300 per cent."

As Prosecution Exhibit 585, we offer in evidence NI 2033, a secret

memorandum of I. G. Farben's participation in Norwegian aluminum production, dated 19 October 1940, and the date indicates it relates to the aggression against Norway and Farben's participation in taking over the Norway facilities for the production of aluminum and magnesium. At page 63, if Your Honors please, page 79 of the German book:

"Aluminum in Norway:

"Following on the discussions which were held at Professor Krauch's on 11 October 1940 and which were recorded in the memorandum of 14 October, Director von der Bey....", it's a name we'll meet again, "....and the undersigned discussed with Dr. Neukirch in Berlin on 16 October 1940 the details relating to the plan for the expansion of the production of aluminum and magnesium in Norway."

Norway had just been taken over.

"According to the plan, production is to be brought up to 120,000 tons of aluminum per year. In the meantime, Dr. Koppenberg is said to have suggested already the figure of 150,000 tons per year."

And at page 66, which is page 82 of the German Book, the last paragraph:

"As is evident from the memorandum on the conference of 11th instant, the Reich Institute for Research, Professor Krauch and Herr Koppenberg are extremely anxious for I. G. to take over the technical cooperation in connection with the execution of the program."

Norway.

"Professor Krauch thinks that this is a unique opportunity in I. G. Farben's aluminum field."

We offer as Prosecution Exhibit 586, NI 8034. It's still about I. G. Farben and Norway. It's a memorandum from the defendant Burger to the defendant Schmitz, dated 23 October 1940, relating to I. G. Farben's participation in Norwegian aluminum and light metal production. At page 67, page 84 of the German book,.....Incidentally, I note from page 67, the memorandum is addressed to the defendant Schmitz and the defendant Ter Meer.

"Re: Aluminum/Norway

"Gentlemen: The Reich Marshal has empowered General Udet to draw on occupied territories for assistance in securing the German aluminum supply and General Udet, in turn, has delegated his authority to Director-General Dr. Koppenberg."

Koppenberg was met in some documents as being the author of some extensive memoranda on particular technical subjects.

"Pursuant to this task, Dr. Koppenberg has now suggested an extensive development of the Norwegian aluminum production, a suggestion which has already been approved by the Reich Marshal and an order issued to carry it into effect as urgent. Accordingly, Norwegian aluminum production, which today is about 40,000 tons per year, is to be increased to 120,000 tons per year, later on to 150,000 tons per year, and the power and aluminum facilities required are to be constructed."

At Page 68, page 85 of the German book, some memorandum:

"It is being considered to found a new company for this development. Professor Krauch requests I. G. to reveal its intention as to the extent and the type of its participation in this project..."

Burgin writing:

"....there is an opportunity here for a participation of preponderant importance, embracing technical leadership for I. G."

and, further down in that paragraph, he says - he's talking about a Norwegian project:

"....this opens up for I. G. entirely new possibilities for all products in whose manufacture electric power is a decisive cost factor."

On page 86 of the German, continuing:

"Decisive participation by I. G. in the aluminum development may become the key factor in I. G. control of these water works. This step would be of far reaching import on the development of the whole light metal industry field of I. G. in which, by reason of its pioneer work and financial sacrifices I. G. is entitled to play a leading role."

Next page, 68, which is page 87, at the bottom of the second paragraph, Surgin, suggesting to Schmitz and Ter Meer:

"I. G. should declare this field fully and entirely its zone of interest and to decide for participation on a leading scale."

And the next page, which is Page 88 of the German, you notice the signature "Buergin." This is another signature which appears illegible -- "Buergin" , --- the defendant.

We offer in evidence as Prosecution Exhibit 587 NI-8144, "Copy of memorandum on a meeting between Reich Air Ministry and Farben on 6 Febr. 1941, re: erection of aluminum plant in Norway." The matter is self-explanatory, the groundwork having been laid in a preceding document as to what this Norwegian project of I.G. Farben's participation is.

As Prosecution Exhibit 588 we offer NI-8827, a letter from defendant Krauch to Staatsrat Schieber, on aluminum planning for the Hercon plant - that is in Norway - dated 12 April 1943, again relating to the same facts of I.G. Farben's participation in Norway.

As Prosecution Exhibit 589 we offer NI-6140, contract dated 2 May 1944 between I.G. and the German Reich, executed on behalf of I.G. by the defendant Buergin and Haefliger. This is in connection with the construction of magnesium plant in Moosbierbaum for the production of magnesium. The contract establishes the fact of further extension and participation.

I might mention in passing that with respect to the last few documents, I related it goes to the point, as we indicated in Control Council Law No. 10, "An element of crime is waging aggressive war."

As Prosecution Exhibit 590 we offer NI-7562, excerpts from a study prepared by Dr. Neukirch. I notice him as an official in the Reich office of the Four Year Plan on the Development of the Light Metals Industry within the Four

Year Plan. It is a history from the viewpoint of the Four Year Plan as to what the planning was and how the progress was made to carry out the plans. Page 79 which is Page 99. The dedication is to Professor Krauch.

The next page, Page 100, in the German, which is Page 80 in the English, the preface:

"As the Military Economy Production Plan drawn up by the General Plenipotentiary for Chemistry in the course of the Four Year Plan is now approaching completion" -- he is talking about Krauch, the General Plenipotentiary for Chemistry -- "as far as the main features of the Light Metals Sector is concerned, the desire for a compilation which sets out the various stages in chronological order and serves as a guide through the voluminous files, thus enabling an overall survey to be made later on, appears to be justified."

And then he proceeds with a detailed discussion as to what happened.

On Page 86, which is Page 108 of the German Book, under the topic "The Development of the Aluminum Industry after the Assumption of Power up to the Beginning of the Four Year Plan 1933-1935:

"After the assumption of power, there began in the German Reich an economic revival in all fields. This increase of economic strength could only be maintained permanently by a free people. In order to achieve and to safeguard their freedom, the Fuehrer, after many repeated proposals for disarmament, gave orders for German rearmament and the building of a new Luftwaffe. A modern Luftwaffe needs aluminum. The first step must therefore be the restoration to full height of the aluminum

production, which during the depression period had dropped to approximately half-, and, over and above this, to increase its capacity. The charge of the extension of the aluminum industry was at that time in the hands of Raw-Materials Commissar, the Reich Ministry of Economy and the Raw Material and Foreign Exchange Staff in the Reich Air Ministry."

Page 91 -- Page 115 of the German -- under "4. The Growth of the Magnesium Industry after the Assumption of Power until the Beginning of the Four Year Plan: 1933-1935" -- in the middle of the Page this is a record of one of the army government offices looking back on the facts.

"In 1936" -- Page 115 of the German -- "it was possible to revert back to the stage reached in the development of the incendiary bomb. The first departure from the previous stage of development was the use of the incendiary charge. It was developed by Dynamit A.G." -- and Your Honors will recall that being a subsidiary of I.G. Farben with its president sitting on the important committees of I.G. Farben -- "after the pattern of the filling of the thermite detonator."

Further down on Page 91, which is on Page 115, there is some discussion of an incendiary charge with an aluminum-magnesium alloy being developed, and it gets technical at that point.

Page 92, which is Page 116, at the top of the English Book, discussing the history:

"As a result of these developments the demand for magnesium grew by leaps and bounds so that the Ministry of Aviation requested I.G. Bitterfeld to expand its

plants. Work was begun in 1934 on the Aken plant on the Elbe for the production of 8,000 tons magnesium per year. After a building period of 8 1/2 months it was possible to produce magnesium metal in this plant. Whereas Bitterfeld was still mostly working on a magnesite basis, Aken produced magnesium on a basis of dolomite/final liquor.

And at Page 97, which is Page 125:

"The many efforts which have been described proved successful. By 1938, in spite of the fact that the many large Wehrmacht orders were nearing completion, particularly for the incendiary bomb, production was not only kept up but, over and above that, the Stassfurt plant, until now idle, with production facilities for 4,200 tons per year, was put into operation at the end of 1938."

That is the I.G. Stassfurth Plant which we saw as a secret plant being put into operation in 1938 according to the military records recital.

"Included in the development of magnesium production for 1933 to 1935 was the planning of the expansion in case of mobilization. The plants built in Aken, Stassfurt and Heringen were therefore planned in such a way that they could be expended at any time.

With that exhibit, 590, Your Honors, we conclude our presentation of Document Book XXX relating to I.G. Farben's performance coinciding with the planning on light metals, magnesium, aluminum and electron metal.

At the next session of the Tribunal we propose to proceed with the subject matter dealing with explosives which I believe are Document Books XXVIII and XXIV, and time permitting, we are prepared to proceed with Document Book XXXV and XXXVI relating to poison gas. That is a lineup of four books for the next session.

We proceed on Thursday, if Your Honors please, to present our expert witness, Mr. Elias, chemical expert who will testify on some of the technical matters appearing in the documents, and our present plans are in view of some pressing engagements. Mr. Elias is back in the States. We would like to present him first thing Thursday morning at whatever stage our documentation may be, if the Court permits.

THE PRESIDENT: Is there any further announcement from the Prosecution?

MR. SPRECHER: Yes, Your Honors. Just one further point. I thought I might advise you of what you perhaps might be thinking. Dr. Boettcher and I have had some conferences concerning the question of the calling of witnesses and the cross examination of affiants who have given affidavits at one stage or another, and which affidavits have been introduced in connection with specific parts of the proof. Dr. Boettcher has informed us that the Defense has formed a committee of five lawyers who will be meeting over the weekend on this point and that they will meet with us on Monday next, and the Prosecution intends to make an announcement concerning this subject on Tuesday morning.

THE PRESIDENT: Thank you.

MR. SPRECHER: There is nothing further.

THE PRESIDENT: The Tribunal feels that it owes a statement from the Bench to Counsel for the Defense and the Prosecution of a

complimentary nature for the expeditious manner in which the trial is progressing. We take a bit of credit for that because of having extended your last weekend recess. We are going to indulge it again. There will be no session on Monday next. We feel that this is helpful to the Prosecution and the Defense alike. We will reconvene again Tuesday morning at the usual time.

And for your information in planning your work, I should like on behalf of the Tribunal to announce further that out of respect to the religious convictions of certain groups of people who will wish to observe next Wednesday as a religious holiday, the Tribunal will not be in session on that day.

The Tribunal will now rise in recess until Tuesday morning at nine-thirty.

THE MARSHAL: The Tribunal will be in recess until nine-thirty o'clock Tuesday morning.

(The Tribunal adjourned until 23 September 1947 at 0930 hours.)

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against KARL KRAUCH, et al, defendants, sitting at Nurnberg, Germany, on 23 September 1947, 0930-1630, JUSTICE SPEKE, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal No. 6.

Military Tribunal 6 is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please Your Honors, all the defendants are present, save the Defendant Hurster, who is absent due to illness.

THE PRESIDENT: If counsel please, the Tribunal is now ready to make a ruling with reference to the objection made by Dr. Hoffmann to the introduction of Exhibit 583. Judge Morris will read the consent of the Court and the ruling.

JUDGE MORRIS: Near the close of the last session of this Tribunal, Dr. Hoffmann, counsel for the Defendant von der Heyde, objected to the offer in evidence by the prosecution of Exhibit 583, which is an affidavit of one Karl Von Heider, executed on 29 July 1947. In making the objection Dr. Hoffmann pointed out that prior to the execution of the affidavit he had presented to the Secretary General of the Military Tribunal a request for a summons for Karl von Heider as a witness for the defense.

As the Tribunal understands the position of Dr. Hoffmann, he contends that this request for summons of von Heider is a witness for the defense, to the exclusion of the rights of the prosecution to use von Heider as a prosecution witness, either by direct testimony on the witness stand or through the presentation of any affidavits of von Heider made after the defendant's request for summons.

It appears from statements in open court made by both counsel for prosecution and counsel for defense that von Heider is a free

Secretary General is overruled.

THE PRESIDENT: Is the prosecution ready to proceed with the introduction of its evidence.

MR. SPEECHER: Yes, Your Honor.

THE PRESIDENT: Then you may proceed.

MR. SPEECHER: There is just one point. We had indicated there would be a statement concerning our practice with respect to the further direct exam and cross-examination of persons who had given affidavits which have been introduced in the sessions so far. At the request of Dr. Boettcher, I would like the permission of the Tribunal to postpone that announcement until Thursday, because defense counsel had indicated that their committee concerning this problem has not had ample time to conclude its recommendations.

THE PRESIDENT: That matter need not impede the trial in the meantime, and it may be passed until the Thursday session.

MR. SPEECHER: Mr. Nathan will continue then.

MR. NATHAN: If Your Honors please, we will proceed with the proof on Count I-D, Farben's participation and performance in the production side in preparing Germany to wage aggressive war.

We are at Book XXVIII, which relates to explosives. The ultimate fact of the extent of Farben's participation in the explosive program is very simple. The figures indicate the percentage. The proof in documents which we shall offer is significant, I think, when you consider the dates and you consider the continuous course of preparation to provide these necessary materials for war, and I think it would be helpful to Your Honors to consider when the documents are presented the particular date, the nature, and the extent of the effort involved to produce the particular commodity in order to ascertain whether these defendants knew what was going on.

witness; that he is not under restraint, but is at complete liberty.

The Tribunal is not inclined to give a request for summons or to the issuance of summons for such a witness the effect for which Dr. Hoffmann contends. It is our view that such a witness may be interviewed by either the prosecution or the defense before or after the issuance of summons and that he may be called as a witness by either party at any time during the trial that the party calling him deems his testimony necessary to the proper presentation of relevant evidence. It naturally follows that if the witness had made an affidavit either before or after the request for issuance of summons the affidavit may be offered and received in evidence under the same rules and with the same effect as though no request had been made or summons issued.

The Tribunal of this case is in quest for truth and the ultimate object is the administration of justice. The attainment of this object would be impeded by permitting the prosecution or the defense through insouciant foresight in requesting the issuance of summons for a free witness to prevent the opposing party from interviewing such witness and obtaining from him testimony either in the form of an affidavit or oral testimony on the stand. It is not unusual for the same witness to be called by both parties and his testimony may be favorable to one party upon one point of the case and favorable to the other party on another point. Both parties have equal rights to produce evidence before the Tribunal. To grant to one party a priority to the testimony of a witness, based exclusively upon the time of request for, or issuance of summons, would not be conducive to accomplishing the ends of justice.

The objection to the introduction of Exhibit 583, being the affidavit of Karl von Heider, upon the ground that at the time that von Heider executed the affidavit a request for the summons of the affiant as a witness for the defense had already been made to the

In Document Book XXXIII we have this chart, or, rather, in Document Book XXXV we have this chart, and I have an extra one, which I am taking out of order. It is NI-5239. We intended originally to use that in connection with Document Book XXXV. We think it will be helpful to have this chart before you during the entire presentation of the evidence on explosives and poison gas. At this time I think it would be sufficient to mark it only for identification, and I ask first that NI-5239 be marked for identification as Prosecution Exhibit 591.

If Your Honors will bear with me for a moment I will get the equivalent in the German Book on page 35 -- 117. This is Prosecution Exhibit for identification 591.

Very briefly, the chart comes from the Reich Office for Economic Development, and the title says, "Interlocking of Raw Materials of the Production of Powder, Explosives, and Preliminary Products. I do not intend to explain the chart at this point.

At the bottom of the left hand is "Explosives." That's high explosives, and all the lines and boxes leading up show the various products that go into the preparation to produce this explosive.

Now the purpose of asking Your Honors to keep this chart in front of you is that as the documents come in, and we see certain enumerated products for raw materials or intermediates, a glance at the chart will indicate that it is one of the products that is in the process of producing high explosives.

Now, if you get to the center of the chart, at the bottom, powder, that's gun powder, and the same thing applies as you can see for the right side, diglycol, ethylene, oxide, and the other things. When they are mentioned in the documents, then a glance at the chart will indicate in a general way that that is an intermediate that is necessary to the production of gun powder. Then I shall ask you to look over to the right of the chart; Chemical Warfare agents, poison gas and the same thing will apply. And it occurs to the prosecution

that as we run into these technical things, while we haven't time to press and dwell in them at this point, it would be helpful for you to have an opportunity to see if it is something that goes into the high explosive production, or gun powder or poison gas, and some of these are products that go into all three.

Now this chart, as I say, is a chart from the German Office of Economic Planning. It's the whole chart indicating the production operation and the necessity of having the various raw materials which go to the production of high explosives, gun powder and poison gas.

Now just one typographical note. At the left hand side of the chart in the box, Raw Gasoline, that is an incorrect translation. I am informed the correct translation should have been "Crude benzol."

I offer first as Prosecution Exhibit 592, MI-7743. This is an affidavit of Dr. Jacobi, who was a former official of I.G. Farben, who was a representative on the nitrogen syndicate and a representative in the International Nitrogen Cartel and his affidavit relates to the importance of Farben's Haber-Bosch process in the manufacture of explosives.

At page 1 of the Document Book, which is page 1 of the German Book, about the middle of the first paragraph, the affiant gives some of his background. He states "in 1918 I was ordered to the Kaiser Wilhelm Institute where I was the administrative military officer. At that institute I met Professor Haber who was appointed later in 1918 to the Ministry for Economic Demobilization, and in that capacity was charged with responsibility for demobilizing the chemical industry which had built up during the war. I became associated with him in that work as his assistant."

And at page 3 of the affidavit, he continues at the top of the page 1 of the German book, "From my association with Professor Haber, Dr. Haber, I.G. Farben and the nitrogen business, I learned the story of the development of synthetic nitrogen and the role it played in the

first World War and thereafter."

And down at the bottom of the page, which is page 2 of the German, when the First World War started in 1914, the principal source of nitrogen from which explosives could be produced was Chilean nitrate. The German government at that time had a stockpile of such Chilean nitrate sufficient only for a war of short duration. Late in 1915 the stock pile had become so low that the explosives and munition situation was in a critical state. As a soldier at the front at that time I distinctly recall that we were rationed in the ammunition that was allotted us. It was then that the German government made a concentrated effort to secure synthetically made nitrogen in order to produce the necessary munitions. For that purpose the government constructed in 1916 the plant at Loue. The existing plant of Badische at Oppau was expanded. The Loue plant was owned by the government but operated by "Badische."

That is the predecessor of I.G.

"The main production of these plants was synthetic ammonia which was later converted to nitric acid, and formed the principal basis for the manufacture of explosives. With the production of synthetic ammonia and nitric acid being stepped up as a result of the new plant facilities, the crisis in munitions was solved by the I.G. It was generally recognized and acknowledged in Germany that had I.G. with its use of the Haber-Bosch process for the manufacture of synthetic nitrogen, not solved the problem of nitrogen production, the first World War would have ended about two years before for lack of explosives."

Now at the end of the document and after his signature, the person before whom it is sworn, the mimeograph is in error. There is no such person. It should be Morris Nathan before whom the affidavit was sworn.

We offer next as Prosecution Exhibit 593, NI-9049, being an

affidavit of Dr. Hans Wagner, former official of Farben, indicating what was Farben's share in making Germany self-sufficient in nitrogen, replacing Chile as the main source of supply for other countries.

Page 6 of the Document Book, which is page 6 of the German book, the middle of the second paragraph, "In 1913/14 Germany produced 109,000 tons of nitrogen of which only 4,000 tons were produced by the former original I.G. organization. In 1933 /34 the total German production was 472,000 tons of nitrogen, of which 238,000 tons were produced by the I.G. In 1937 the production share of the I.G. and its related plants amounted to 70% of the total German production."

At page 7, which is at page 8 of the German book, the line immediately above "page 3 of original", he has some comparative figures of Chile and Germany. "In 1938/39 the total Chilean production had increased to 221,000 tons. I.G. production, however, totaled 520,000 tons."

Compare that 520,000 tons in 1938/39 to 109,000 tons 1913 and the total German production of 472,000 tons in 1933.

NI-8313 is already in evidence as Prosecution Exhibit 325. It is an affidavit by Dr. Struss of Farben showing that nitrogen was the basic element in nitrates production and that Farben and its subsidiaries manufactured 84% of Germany's explosives, that is high explosives, and 70% of Germany's gun powder from its nitrogen and intermediate production.

Now at page 10, which is page 12 of the German book, the second paragraph, toward the end, "It was Farben's unique position in the nitrate field which promoted the biggest German producer of gun powder and ammunition, the Dynamit A.G. to come to a community of interest agreement with Farben in 1926.

"I.G. Farben soon succeeded in dominating the Dynamit A.G. In the first place, the Dynamit A.G. was dependent on I.G. for nitrates. Moreover, I.G. held over 50% of the voting rights in the D.A.G. Furthermore I.G. was represented in the Aufsichtsrat of DAG by Bosch, Duisburg,

Gajewski and Schmitz, that is the defendant Gajewski and the defendant Schmitz sitting in the Aufsichtsrat," supervisory board of Dynamit I.G. Continues Struss in his affidavit; "Finally, Director-General Dr. Paul Mueller of D.G.,-he was the president of the D.G.-was a member of the I.G.-TEA. All credit applications of D.G were discussed in the I.G.-TEA which, with this exception was entirely composed of I.G. "carbon men."

Down further on the page, under III: "According to my estimate, I. G. Farben and its subsidiaries, DAG and Wasag" -- (we will run into those names again and I call your Honor's attention to Wasag and DAG as being subsidiaries of Farben) -- "manufactured 84% of Germany's explosives and 70% of Germany's gunpowder from its nitrogen and intermediate production."

The next three documents, if your Honors please, which again is proof of the point -- and it is an important point -- of the dependency, both by the way of economics, voting rights, and business of DAG on I.G. Farben, -- and the purpose of that is, as the evidence will show as we go along that the actual production of gunpowder was made by DAG and its subsidiaries, and the point we have in mind with this evidence is to show that, for all practical purposes, DAG is, and was, I. G. Farben.

Now, the three documents that I referred to, Mr. Sprecher calls to my attention, have been fully covered at the time he covered the corporate structure, and there is no need to discuss those documents in any detail.

NI-6345 -- it is suggested to me to repeat for the record the numbers, and thus indicate their former exhibit numbers. NI-4927 is already in evidence as Prosecution Exhibit 362. That is the minutes of the first meeting of the Commercial Committee of Farben in 1937, which indicates that Dr. Paul Mueller, Director General of DAG, was invited to the constituent meeting of this Committee. That is, the Commercial Committee. Strauss indicated that he was in the TLA.

NI-7239 is already in evidence as Prosecution Exhibit 50. That is an affidavit of Paul Dencker concerning the agreement between Farben and DAG, also on the same point.

NI-6977 is already in evidence as Exhibit 326. It is a statement of the defendant von Weizsaecker concerning I. G. Farben in the DAG, and this affidavit contributes additional information that Dr. Muller, of DAG, was a brother-in-law of the defendant Schmitz of I. G. Farben.

NI-6345 is already in evidence as Prosecution Exhibit 327. It is a copy of a letter from Dynamit A. G. to Farben, stating that "DAG is practically a part of I. G. Farben."

The next series of documents relate to the production and construction of a standby plant to produce Diglycol. If your Honors will just glance at the chart for a moment, in the center, under "Gunpowder", you go up three boxes you will see, "Diglycol". As you start at the bottom of that, you go up one, two, three, - "Diglycol"; immediately below, "Ethylene Oxide". Just a glance at that would indicate that it is necessary in the production of gunpowder. Some of the lines going over to the left show it also goes into high explosive, and in other lines you see it as necessary ingredients for poison gas.

NI-5762 is already in evidence as Prosecution Exhibit 108. It is a letter from I. G. Farben to August 1935, signed by Dr. Pistor of Farben, addressed to Ruhl of Farben, and encloses the minutes of a conference with Dr. Zahn of Army Ordnance of 23 August 1935, relating to an agreement to establish a Diglycol plant at Wolfen. The plan is to construct a standby plant for stabilizers, and the production of hexamine is to be undertaken by Dynamit A. G. I shall not go into any extent of detail on the functions of Diglycol. The present indication of the substance of this process is sufficient for present purposes.

NI-5761 is already in evidence as Prosecution Exhibit 109. It is a strictly confidential memorandum by Dr. Pistor of I. G. relating to his discussion again with Dr. Zahn of Army Ordnance in September 1935, again concerning Diglycol.

Page 31 I think is interesting. That is page 27 of the German book. In the middle of the page, after reciting his discussions with Dr. Zahn in connection with Diglycol, in parenthesis: "Dr. Forster with whom I spoke about this matter also emphasized that naturally the state should not be given any power to become our competitor with the help of equipment like the stabilizer plant --" A little further down,

two paragraphs from the bottom, an admission that "we (I. G. Farben) are in agreement with Dr. Zahn that we, in collaboration with Ludwigshafen on the one hand, and Sasag on the other (that is, the subsidiary I mentioned) should carry through the research work planned in connection with Diglycol- that is September 1935 - and that only after everything has thus been clarified, should we start building."

At page 32 — this is with reference to the Omega product. I just ask Your Honors to note that there will be testimony on what it is. Then, in the middle of the page again, which is 29 of the German Book after the parenthesis: "I also discuss this matter with Dr. Ter Meer who said" — and so forth.

On page 33, which is page 29 in the German: "I have not talked to Dr. Zahn with regard to the stabilizers." "Stabilizer" is something about which you will have testimony later on. It is a necessary ingredient in the preservation of gunpowder. In a general way it sort of stabilizes the powder and prevents premature explosion. — "I have not talked to Dr. Z. with regard to the stabilizer since Dr. Ter Meer will be having discussions on this matter with Dr. Zahn and Dr. Laux in the course of the next few days." We will be having discussions with this matter later on with Dr. Zahn.

NI-6144 is already in evidence as Exhibit 110. Your Honors will note it is a contract dated 1942 between the Reich and I. G. Farben. That we call attention to, on page 34, of the English Book on page 30, of the German, is the preamble containing recitals of what happened before this contract was made: "In 1935 the firm (that is Farben, on its own initiative conducted experiments in its Hoechst Laboratories which led to the discovery that hexogen" (and you will hear about hexogen; and you will also notice on the chart, under "Explosives", on the left hand, the second one on the right, just immediately above "Explosives", hexogen is one of the products for explosives — that is, the second one from the bottom there, under "Explosives"). And the

preamble contains that Farben conducted experiments on its own initiative with hexogen which led to the discovery that hexogen can be obtained by nitration of certain chemicals. And then they registered a secret patent, a process; and the balance of the paragraph will also disclose a recital as of earlier times as to experiments on certain other technical processes to produce ingredients for explosives. It is the recital which we think is significant in this contract.

NL-6498 is already in evidence as Prosecution Exhibit 111.

It is a strictly confidential letter of 13 December 1935 from Dynamit A.G. to Director Krauszlein of I.G. Farben at Hoechst with respect to the cooperation between I.G. Farben and Dynamit A.G. with respect to the production of explosives. Page 38, which is 35 of the German Book. This is Dr. Paul Mueller of DAG, writing to Farben. The first paragraph is very interesting: "I cannot tell you how glad I am to observe the most gratifying results of the closer collaboration in the sphere of high explosives upon which we embarked some time ago." (this is December 1935)." I do not want to miss the opportunity to inform you of a paragraph in a letter from the Commander-in-Chief of the Army, signed 'by order' by Lt. Col. von Horstig, which reads: 'Section No. 1 of the Production and Examination Department of Army Ordnance Office congratulates D.A.G. on having been enabled - by close collaboration with I.G. and Army Ordnance Office, Production and Examination Departments - to produce the modern high explosives Trinitrobenzene and Hexogene and to develop them further in the interests of the defense of Germany.'

And then you will notice in the next sentence a reference to the process for the production of synthetic glycerine. Glycerine is, as Your Honors probably know, an essential ingredient in the manufacture of explosives. They are about to experiment on its synthetic production.

Further down: "I am very glad that the Hexogene Nitration process, so successfully developed by Drs. Wolfen and Schmurr, is to be demonstrated in Berlin."

NL-4490 is already in evidence as Prosecution Exhibit 114. It is a file note of Dr. G. Pistor, deceased member of the Vorstand, relating to a discussion which he had with Dr. Zahn of Army Ordnance, on 13 September 1936. Dr. Zahn conferred first on the chlorine situation with Dr. Ritter. Chlorine, as your Honors can see, is the necessary ingredient in poison gas. There is also a discussion of a sulphuric acid plant, which, your Honors will later have testimony on, is vital

for the production of explosives; and the discussion of creating two emergency plants for more sulphuric acid.

The Diglycol capacity at Ludwigshafen is discussed; and also the phosgene production. This is September 1936.

Page 40, if your Honors will note, which is page 37 of the German book: "I called on Dr. Zahn to show him by means of a map of the dye factory Wolfen" (that is, Farben's Wolfen) "the site recently chosen by us for the new production of calcium sulphuric acid."

Now, if your Honors will note on the chart, on the right-hand corner on the top, "Gypsum", and then a heavy line going over to the left to contact "Sulphuric Acid", indicating that Sulphuric Acid is made from Gypsum, - and that is the reference here to Calcium Sulphuric Acid.

And the second paragraph: "On this occasion I asked Dr. Zahn whether any interest existed in our establishing a second calcium sulphuric acid plant beside the first."

And then further down in that paragraph your Honors will notice that two more plants for the manufacture of calcium sulphuric acid will be needed (November 1936) as emergency plants.

Further down: "As to the production facilities for diglycol, Dr. Zahn referred to the fact that at Ludwigshafen" (I.G. Farben), "up to 350 tons could be produced monthly, a quantity which he thought would not yet be needed at present because each powder had not been tested for a possible use of diglycol."

And your Honors will also note the next sentence with reference and Phosgene and Acetophene.

If your Honors will turn a page, which is page 38, you will note that a copy of this memorandum went to Dr. Buergin, - that is the defendant Buergin.

NI-4488 is already in evidence as Prosecution Exhibit 115. It is a memorandum of 17 December 1936 relating to a visit by Dr. Zahn of the Army Ordnance to the I.G. plant at Wolfen and Bitterfeld. Dr.

Zahn indicates that in view of the shortage of Glycerine it was urgently necessary that the Diglycol plant at Wolfen be put in operation on 1 March 1937.

On page 42, if your Honors please, which is page 39 of the German Book -- that is, 17 December 1936: "Dr. Zahn stated that the lack of glycerine made it urgently necessary for the Wolfen diglycol plant to start operations on 1 March."

Your Honors will see in some further documents -- and it is apparent from this -- that Diglycol is to serve the purpose as a substitute for Glycerine, and the Diglycol, -- the production of that is to take care of the shortage of fat which is necessary to produce glycerine. That is apparent from the very first sentence.

Paragraph 3, Your Honors will note, has reference to industrial alcohol, and, if Your Honors will just glance at the chart again, in the center, where we have "Gunpowder", -- as you go up six boxes, you will see "Alcohol". Right above "Ethylene". And, of course, you can see there that Alcohol is a necessary ingredient for the production of gunpowder and the products listed there.

Paragraph 4 is interesting. Dr. Zahn counts upon 1 October 1937 as a deadline for the completion of the stabilizer plants. He puts deadlines on explosive plants on December 1936.

NL-4487 is already in evidence as Exhibit 116. It is a confidential letter of 17 December 1936, same date, from Dr. Pistor to Dr. Buhl of I.G. Farben, stating that I.G. Farben Bitterfeld, had a visit from Dr. Zahn, who informed him that the main agreement regarding Diglycol had been signed. Dr. Zahn indicated that immediately when the first Diglycol plant was ready it would be necessary to put it in operation.

Page 43, if Your Honors please, page 41 of the German Book, at the bottom, the marginal note: "Diglycol is to replace Glycerine, which is scarce." And that, I think, indicates the urgency with which they are going after setting a Diglycol plant into operation.

NI-4489, which is Exhibit 117, is a file memorandum of Farben, of 11 January 1937, relating to a telephone conversation between Dr. Wittmer of I.G., and Dr. Zahn of Army Ordnance, regarding the plant in Amendorf, which was to be put into operation promptly.

At page 44, if Your Honors please, page 46 of the German Book: "Ministerialrat Dr. Zahn has agreed to start Amendorf at once" (January 1937) "if Ludwigshafen guarantees to transport to Ludwigshafen the produced oxide" (that should be Ethylene Oxide) "as far as that cannot be manufactured into tripropylene glycol due to the lack of storage room and to manufacture it into Diglycol."

Now, if your Honors will again look at the chart, please, under "Powder", four lines up, you will note "Ethylene Oxide", and you will note that "Ethylene Oxide", with a line going over to the right, is used to produce this Diglycol, which is a necessary ingredient for poison gas; and your Honors will also note directly under "Ethylene Oxide" is Diglycol, which, according to the chart, indicates that it is being used for the production of powder.

Now, they are having a little difficulty - as I read this paragraph One, as between the allocation and use of Ethylene Oxide for the production of Tripropylene glycol for poison gas and the production of Ethylene Oxide for Diglycol. On that chart there will be some further oral testimony. The thing of pertinence I think for present purposes are indicated with reference to the chart.

NI-4492 is already in evidence as Prosecution Exhibit 118. It is a memorandum of 20 January 1937, of a discussion in Berlin between Dr. Zahn of Army Ordnance and various named officials of I.G. Farben. It is a draft of a lease agreement for the plant production of Diglycol, and some discussion on Phosgene gas and Diglycol production. The letter is explanatory in and of itself. The nature of the product, I think, has already been indicated.

NL-4494 is already in evidence as Prosecution Exhibit 119.

It is a letter of I.G. Farben at Wolfen to I.G. Farben at Frankfurt, February 1937, - again referring to the storage facilities at Wolfen and Ludwigshafen in connection with the production of Diglycol. There will be some testimony that Ethylene Oxide, which, your Honors just noted, was to be used for Diglycol and also Triodiglycol, and under certain circumstances some of these products are difficult for storage, and it might be meant whether the product is being used for one job of production or the other. But the point we make here is that the nature of the product being discussed in February 1937 is important. I think your Honors should note, with respect to that document, that a copy of it went to the defendant Ambros. That is February 1937.

NL-4486 is already in evidence as Prosecution Exhibit 120. It is correspondence in March 1937 between the Legal Department of I.G. Farben at Ludwigshafen - again with reference to the Diglycol plant at Wolfen. There are some significant admissions in this inter-office exchange of correspondence. This is Dr. Buhl of I.G. Farben, - on page 53 - which is page 54 of the German, writing to Ludwigshafen, March 1937;

"In reply to your letter of 16 March, I am glad to inform you that the Diglycol plant at Wolfen was originally planned merely as a stand by plant in case of war and that for this reason alone we first had no cause whatsoever to contact Goldschmidt in this matter."

Preceding correspondence indicates that Goldschmidt, the same Goldschmidt, had some contractual arrangement with Farben, and Goldschmidt got wind, so-to-speak, of this Wolfen plant, and there is some correspondence. Goldschmidt wanted to know what its interest was in view of its contractual arrangements. Then comes this letter from the legal staff of Farben, Buhl, the reason they couldn't tell Goldschmidt about it, being a stand-by plant in case of war. Then at the bottom of that.

"In addition to this we are bound to strictest secrecy, and would need official approval for a discussion with Goldschmidt on this matter."

March 1937.

NI-5768 - 63, I am sorry, that is Exhibit 121 already in evidence. It is a letter, March 1937, from Pistor, I.G., to Buhl of I.G. indicating that the Wolfen plant is about to go into production and that its production would go to the explosive factories of Wasag and Dynamit-Nobel, Dynamit A.G. page 53, if your Honors please, which is Page 53 of the German, you will note in the first paragraph a reference to "Montan takes possession of the factory". We intended to go into the various financial arrangements of having subsidiary corporations take over a plant and another subsidiary operate it when we were going to discuss plants, and since we sifted our order of proof, I would just say that Montan is one of the Government-owned subsidiaries which had title to the plants and then leased it to other subsidiaries. The Montan is the thing we wall attention to, and then further on the page, the last paragraph, which is at Page 54 of the German, there is a reference to a quotation from Ludwigshafen, where diglycol has been manufactured for some considerable time" this is March 1937, and the reference that "the

higher amortization for the construction of the new plant is to be taken into consideration". Of course, your Honors will note that higher amortization, special amortization, as appeared in some early affidavits was only for the purpose in these cases where the plant had extraordinary uses.

Page 54, if Your Honors please, this document also contains a reference to another visit from Dr. Zahn in March 1937. Under 2 - it is Page 55 of the German book, "As an exact basis for the calculation of the price for diglycol can be obtained only after several months of production, and as, on the other hand, we must contact Wasag and D.A.G. who are going to be the buyers of our product." Dr. Zahn recommended an agreement and we submitted that the production of diglycol was going to D.A.G. and Wasag obviously for explosive purposes.

Under 4 there is a reference to Omega salt, about which we shall discuss later, and new processes in connection with that. Page 55, which is page 57 in the German, still of the same document, this is a letter from the High Command of the Army to I.G. Farben, on 15 March 1937. This is the Army discussion of the importance of diglycol and what I.G. Farben is doing in connection with it. The first paragraph:

"The great shortage in glycerine supplies on the one hand, and the increased demand in the most widely divergent industrial and Wehrmacht spheres on the other hand, make it necessary that an adequate amount of diglycol should be available at the right time. The High Command of the Armed Forces therefore agrees that you take all measures to ensure an early part of production in the new diglycol plant in Wolfen."

Then in the middle there is a reference that the Army-owned diglycolene plant in Wolfen is leased to you for this purpose by Montan, indicating Montan being the subsidiary holding cartel to the plant.

JUDGE MORRIS: I notice, Counsel, they were using the word "diglycolene". As it appears in my book it is "diglycol". Is that the same

thing?

MR. ANCHAN: It is one and the same thing. It is a matter of translation. Your Honors will note toluol and toluene. My explanation in information from experts is that it is one and the same thing and just a matter of using the Americanized or English version. It is one and the same thing.

NI-4493, we offer in evidence as Prosecution's Exhibit 594. It is a copy of a contract between I.G. Farben and the OPV regarding stand by plants for the production of diglycol and stabilizers. The preamble we call attention to, at page 57. It is a recital of previous dates and previous orders in connection with the production of this product. Page 57, which is page 60 of the German document book, there is no necessity to read it, just call attention to the fact that it is a discussion of stand-by plants for diglycol and decontaminators and stabilizers having been put in effect at an earlier time, and at Page 57 under (a), "Preliminary products for explosives, diglycol and dinitrodiphenylamine" there should be wholesale orders for diglycol also considered.

300 tons of diglycol, 1938; in September 1938, expanding the plant to 600 tons; September 1939, expansion of an intermediate storage space for diglycol and alcohol.

Your Honors will go down the line under "Stabilizers". Under "Decontamination Chemicals" on 58 and over on page 59, what we call attention to is the recitals in this contract to the early orders for these various necessary products used in connection with this program.

NI-5668 is already in evidence as Prosecution's Exhibit 127. It is a report of a conference at Leuna in December 1937 relating to nitrogen production and it shows - that is 5668 if Your Honors please - it shows the figures of the increase in production in 1937 through the Four Year Plan. Your Honors will recall the affidavit of Jacobi and some

other witnesses to the effect that nitrogen is a necessary ingredient and almost a basic ingredient for the production of explosives. Here is a report at Leuna of December 1937 on nitrogen production. Page 67, if Your Honors please, page 69 of the German.

"As compared with the year 1936, activity has increased by about 25,000 tons Nitrogen or 44 percent. Two-thirds of the increase is accounted for by the home market and one-third by the foreign market. The increase in home consumption is made up of 10,000 tons Nitrogen for nitric acid and 7,000 tons Nitrogen for liquid ammonia."

Your Honors will have testimony on the necessity of nitric acid for the production of ammonia. Your Honors will also recall the testimony of General Morgan where he mentioned nitration as being a process whereby nitric acid is treated and used in connection with ordinary products to a degree to make them explosives. The point is nitric acid is vital to the production of explosives and the nitrogen production here, the increase according to their own discussion, is going in the main to the production of nitric acid.

At page 68, which is page 70 of the German book, in the middle of the page, this is still the conference at Leuna in December 1937, "In November there was a temporary shortage of nitric acid caused by large orders from the factories producing explosives. Consequently the Reich Ministry of Economics and the Army Ordnance Branch considered it necessary to intervene and to prescribe a plan of distribution."

"We offer in evidence as Prosecution's Exhibit 595 NI-5896. It is the minutes of the meeting in May 1937 of the Technical Management at Hoechst. That is NI-5896, and at that meeting there is some reference to nitrogen sales. At page 70, which is page 76 of the German, first I call attention to the fact that Jaehne is present at this conference. That is the Defendant Jaehne. The discussion at that conference was very short, very significant. "The nitrogen section shows a considerable

increase in shipments. In 1936 about 30 railway cars a day were loaded, whereas- page 76 - whereas in 1937, about 120 railroad cars a day,"

We offer in evidence as Prosecution's Exhibit 596, NI-4636. It is a memoranda, February 5, 1937, of the chemicals sales combine of I.G. relating to the manufacture of decontamination oil. That is NI-4636, page 77 of the German book. The memorandum is self-explanatory.

We offer in evidence as Prosecution's Exhibit 597, - I am sorry, NI-4634 is already in evidence as Exhibit 122. It is a secret file memorandum of the Vermittlungsstelle W signed by Dr. Wagner. It is page 80 of the German book. It is on the 25th of June, 1938, and it relates to the subject of substances for the decontamination of weapons. Now, the memorandum reveals that the officials of the Vermittlungsstelle W were invited on 25 June '38, to the Army High Command, and spoke there to their pharmacists. The production of substances for the decontamination of weapons in Wolfen was discussed with the Army High Command and there are questions of increased production for these things.

23 Sept 47-6-1-M-2H-Hoxsie (Ranler)

NI-5687 is already in evidence as Exhibit 438. It is a copy of a memorandum dated June 30, 1938 addressed to the Defendant Krauch, at Page 75, if your Honors please, Page 83 of the German book. The index saying 30 June is incorrect. It should be 27 June 1938, and I think the date is significant, as your Honors will see later on. This is a letter from Ambros to Krauch, 27 June 1938. It gives him his views on what the overall plans for the chemical rearmament should be. You will note under Item 1, reference to "Building up of Diglycol Stocks". Under Item 2 you will notice "Diglycol Plant at Schkopau." Under 1, which I just mentioned, I might as well read it: "The Reich Office, for understandable reasons, is urging the laying in of stocks of Diglycol now, in June" - that is 1938 - "whereas the Army Ordnance Office is reluctant to do this. As late as April, for instance, the productive capacity of the Wofen plant was reduced by about half and the purchase of the production of Ludwigshafen was stopped entirely." The fact of Wolfen and Ludwigshafen producing diglycol. Then we went to Schkopau," and on the next page, 76, you will see again a reference to Schkopau," and under 3, "Army Ordnance Plant at Trostberg" that plant is significant.

"The Army Ordnance Office has been working on the final stage in the production of poison gases at Trostberg since 1937, although even today it is still not clear what process is to be used in the production of the preliminary products, and it may be years before one knows how much work the final stage will entail, and all this at a time, when, as is known, there is such great scarcity of materials.

"A remarkable fact is that the Reich Office is striving to bring about the merging of the stand-by plants with the existing factories, whereas the Army Offices often prefer plants to be constructed 'out in the meadows'."

at the bottom of Page 76, which is Page 84, at the bottom of Page 76;

23 Sept 47-6-2-M-Ambrosia (Ramler)

"Actually, the real advances in the field of chemical warfare agents and explosives should come, as in the case of other countries" - Page 34 of the German book - "should come from the industrial research laboratories. Industry is in the best position to judge as to the supply of raw materials and technical processes."

If your Honors will go down two paragraphs, Page 35 of the German book, this is Ambros talking to Krauch, "In our opinion, for what it is worth, rearmament in the field of chemical warfare agents is inadequate and as to all intents and purposes remained at the 1918 level. Only during the last few months have attempts been made to apply technical advances to the old chemical warfare agents and under the driving force of industry, especially of I.G., to develop new types such as mixed mustard gas, N-mustard gas, etc."

And at Page 78, which is Page 36 in the German book, "If German rearmament is to proceed with the necessary speed and on national principles, what we need is that we should deal with one single, responsible office," 27 June 1938.

Dr. Gether: Dr. Gether, counsel for the Defendant Ambros.

With reference to the document which was offered by the Prosecution as Exhibit 438, I should like to draw the attention of the Tribunal again to the fact that the memorandum, designated as a letter, does not bear a signature, neither a signature of a person, or of an office. I, therefore, must raise an objection to the interpretation of this document as it was made by Counsel for the Prosecution when he said that, "We are concerned with a letter of the Defendant Ambros." It does not become evident from this document where it was found. It does not become evident whether it actually reached the Defendant Krauch, the addressee, this is, however the

23 Sept 47-6-3-M-44-Hoxsie (Ramlar)

necessary prerequisite, in order to designate this memorandum as a letter. It is important to know whether these formulations are actually the formulations of the Defendant Ambros. They bear no signature whatsoever, yet I have understood the Prosecutor to say that he is considering this document as originating from the Defendant Ambros.

MR. ALCHAN: If counsel's point is that he denies that the Defendant Ambros is the author of the document we just offered in evidence, we are prepared to pass the point and present proof of the authorship. It is a copy of the letter and the indication "A" on the top. From our information that we have, seems to indicate that, in accordance with the practice of I.G. Farben, this is a copy that we only had, that this letter emanated from the Defendant Ambros's office. Now, if there is a question of fact we would be glad to pass it by.

THE PRESIDENT: The defendant is not bound by the statements of the prosecution as to what they construe the document to be. The document speaks for itself, and no basis for excluding it has been suggested by counsel for the defense. The objection is overruled. The Prosecution may do as it sees fit as to whether or not it does or does not offer further evidence of authorship of the letter. The letter is admissible. The weight to be given to the document is for the Tribunal.

DR. GATHER: I would ask the Tribunal not to misunderstand me. My objection was not raised as to the admissibility of this document as a valid document, but it was only to the interpretation as it was given there by the Prosecution.

THE PRESIDENT: This Tribunal is not bound by the remarks of counsel as to what a document establishes or what its probative value may be. We accept and permit such

23 Sept 47-6-4-M-AMH-Hoxsie (Hamler)

statements as purely explanatory of what counsel is undertaking to establish, and this defendant will not be harmed by observations of counsel made at the time when a document is offered in evidence unless the evidence established the observation as facts.

MR. ALCHAM: I might only mention in connection with this document that it already has been accepted in evidence as Prosecution Exhibit 438, and Mr. Sprecher informs me it was found in Dr. Amoros's file.

Would this be an appropriate point--

THE PRESIDENT: The Tribunal will now rise for its morning recess.

THE MARSHAL: The Tribunal will be in recess for fifteen minutes.

THE MARSHAL: The Tribunal is again in session.

MR. AMCHAM: If Your Honors please. At page 5 of the index, NI-4637 is already in evidence as Exhibit 123. It's a confidential letter of 14 July 1938 from the Zentraleinkauf in Berlin to Ludwigshafen and Leverkusen or, rather to Leverkusen, concerning the purchase of additional toluol for the manufacture of explosives by the standby plant. If Your Honors will please look at the chart on the left hand side, under explosives, almost directly up three boxes, you will see pure toluol, synthetic toluol coming via ethanol, and, over at the left, pure toluol coming by another process, but Your Honors will note the importance of toluol in the explosive program.

At page 79, if Your Honors please, page 87 of the German book:
"Subject: Toluol."

From the BuringDepartment at Ludwigshafen, concerning taking over of additional toluol by the A-factory, a code name, 4 July 1938. In the middle:

"It developed in this connection that the Supreme Command of the Army had been induced to make this inquiry because of our small demands for pure toluol from the Benzol Union for the month of June. Meanwhile, as is known, even increased quantities of pure toluol have been called up for the current month and the month of August in consequence of the demands of the explosives factories which have increased again. The Supreme Command of the Army had known nothing of this at the time of its inquiry at Vermittlungsstelle W. Because of our increased demands for pure toluol, the action of the Supreme Command has become meaningless."

Your Honors, I think it is worthy of note to point out the date, July, and they speak about the increased demand in August of the following year. August, 1938, a month before Munich.

At Page 80; if Your Honors please, which is page 89 of the German, additional toluol and pure toluol could be taken on by I.G.

We offer in evidence, as Prosecution Exhibit 597, NI-7380. It's a copy of a letter from I.G., signed by the defendant Ambros, addressed to the OKW, re: the construction of the Huelo plant. The letter is May, 1938, and it relates to diglycol and ethylene oxide. At page 81, if Your Honors please, which is page 90 of the German, Your Honors will recall, in connection with the story on synthetic rubber that the Huelo plant was one of the plants built for the production of synthetic rubber. What we're pointing out is that in connection with the Huelo plant there was an additional chemical plant for the production of the necessary raw materials for the manufacture of poison gasses and explosives. At page 81, which is page 90 of the German, the second paragraph.....

THE PRESIDENT: Would you give us again the English page, if you please?

MR. AMORAN: 81, if Your Honors please. This is Ambros to the Army High Command:

"On account of your last discussion with Dr. Ter Meer, we have now started the construction of the chemical plants at Huelo."

Now, the next paragraph:

"With regard to the 'A' - Plant project itself we beg to state that the various sections which are the responsibility of I.G., namely, Diglycol, Oxol and storehouses are already being planned."

"For the planning of the whole of this sector...." This is May, 1938. "... we now require, as soon as possible, the construction plans for the esterification plant..." It should be esterification. "... esterification plant, Mustard Gas (Direct Lost), plant and the store-rooms required connecting."

And then, a reference to Ludwigshafen.

Now, not by way of testimony but merely by way of trying to follow the subject matter - an esterification plant, I am informed, is the process whereby ethylene oxide or ethylene is converted into mustard

gas. Your Honors will note on the chart, under ethylene and under ethylene oxide, in the center, two lines running over to the right and they terminate at the box "D-Ester" which is DL or mustard gas.

Page 52, if Your Honors please, which is page 91 of the German book, the second paragraph. Still Ambros writing to the Army High Command:

"In the letter dealing with your order you confirm having demanded two annual deliveries of 8000 tons each of ethylene oxide...."
Ethylene Oxide. Your Honors have seen that in a box on the chart.
"... at a basic price of so much. We hope it meets with your approval that these quantities of ethylene oxide are transformed in Huelo into Diglycol and Oxol, because, as you know, storage of ethylene oxide on such a scale is impossible."

And, at the bottom of the document, Your Honors will note Ambros is the author.

SI-7428 is already in evidence as Prosecution Exhibit 217. It's a letter from Krauch's office to I.G. at Ludwigshafen, with respect to the Diglycol plant, the ethylene experimental plant at Sodingen, and the Direct Lost (mustard gas) experiments. The letter, 26 August 1938.

Page 54, if Your Honors please, which is page 93 of the German book. At the top of the page, over at the left hand side, showing Dr. C. Krauch, addressed to Farben at Ludwigshafen, 5 September 1938. I am in error. It's confirmed on 5 September 1938. The date of the letter is 26 August 1938. The first paragraph is worth noting:

"In accordance with the decision of Fieldmarshal Goering of 22 August 1938 I give you the additional information that the building projects for diglycol expansion, ethylene experimental plant Sodingen DL experiments (direct mustard gas) have been classified as pressing, urgent building projects."

Page 55, if Your Honors please, page 94 of the German text. You

will note, at the top, there is a code number with respect to the construction of this job.

Third paragraph, page 94 of the German. Krauch speaking:

"Furthermore, I have commissioned Dr. Max Wittwer of Ludwigshafen-Rhine, with the technical advice and supervision of all building projects in the sphere of organic-chemical preliminary products, and Dr. Wittwer is responsible to me."

Again, Your Honors will note, an I.G. Farben man in charge of the entire project for Krauch's office.

The last paragraph, page 95 of the German book:

"I also should like to mention that in accordance with an order by the Fieldmarshal, future planning will take place under my direction in close cooperation with the Wehrmacht, and I therefore request you immediately to inform me in future of any questions arising in the field of production of organic-chemical preliminary products. The questions will then be dealt with in closest collaboration with the Wehrmacht offices involved."

August, 1938.

We offer in evidence as Prosecution Exhibit 598, WI-7430, which is a letter from I.G. relating to a stand-by plant for the production of glycol and acetic acid, signed by defendants ter Meer and Ambros. Page 87, if Your Honors please; page 96 of the German book. The date, 29 April 1937. "We....declare" — this is Ambros and ter Meer writing—"ourselves prepared to put our experience at your disposal for the extension of the stand-by plant at Trostberg, and to act as technical advisory office for the building operations." And at page 88, if Your Honors please, which is page 97 of the German book, we see that the stand-by plant is, and they refer to glycol: 800 tons of thiodiglycol. And if Your Honors will look again at the chart, if you please, over at the right-hand, immediately above "Chemical Warfare Agents," thiodiglycol being the product from which mustard gas is made.

And at page 90, if your Honors please, page 100 of the German book, again the date 21 April 1937, the first paragraph: "Dr. Eckell stated that a plant has been decided on in Trostberg for the 'A-Fall'" — that is the code name for in-the-event-of-war—"to produce diglycol Oxol and acetic acid. In the 'A-Fall'" — this is April '37—"80,000 tons of carbide should be commandeered for these products. The operation of the plant in peace-time is not envisaged."

Now, this memorandum of a discussion is 21 April 1937. If Your Honors will turn again back to page 87, the beginning of this document, you will note that ter Meer and Ambros's letter to the Office for German raw Materials confirming that they are ready to place their experience at this Trostberg plant is dated after this conference, and I think we can assume it is with knowledge of the purpose for the Trostberg plant. A-Fall is not to be used in peace-time, and so forth.

Page 88 of the same document—Mr. Sprecher calls me attention to the fact—in the first paragraph, with reference to the conversation which took place at the office: "I beg to inform you...." and there is

a conversation. I think, if Your Honors please, that takes care of the first book on Explosives, and we are prepared to proceed with Book 34.

DR. PRIBILLA: Counsel for defendants Leutenschlaeger and Jachne); Mr. President, please permit me, before Books 34 and 35 are submitted, to make some fundamental statements. The books which the Prosecution intends to submit contain several documents which mention the defendants that I represent. I have studied these documents in detail, and simultaneously I read the list of contents which is prefaced in these books. I found out in this connection that the list of contents points out something which is not to be found in the documents themselves.

I shall give you two examples: Document EL-6500, which is to be found in Document Book 35, EL-6500, on page 81.

THE PRESIDENT: Yes, we have it.

DR. PRIBILLA: This document treats a normal transaction of business. It speaks of the production of a chemical which is called "Tutogen." This Tutogen is a very well known means in Germany for the extinguishing of fires. The entire document treats only this particular chemical, but the list of contents notes that this is a preliminary product for mustard gas. I understand, Mr. President, that if the Prosecution argues about a document I also have the right to bring counter-evidence in my submission of documents; and if the Prosecution says something about a document which is wrong, then the Court will form its judgment about evidence and counter-evidence later. But I am not speaking about that point now. I am now speaking about this list of contents.

I am of the opinion that for the convenience of the Court and all those participating in the Court, it was prepared by the Prosecution. Therefore, I believe it should only treat objectively the contents which are to be found in a document very briefly. If it does not do that, but if it argues about the contents of these documents, then a dangerous and false impression may be created. And, added to that, it must be taken into account that the Prosecution has drawn up this list of contents

only in the English language. The German document books of the Defense only contain this English list of documents of the Prosecution, and of course it constitutes a certain amount of confidence in assuming that the contents are designated very briefly and objectively in the index.

However, if they argue in this list of contents about the subject matter, then I should like to ask you to, at least, instruct the Prosecution to draft the list of contents also in the German language and to submit them to Defense counsel and to the defendants.

THE PRESIDENT: The Tribunal has said before and now repeats that it does not regard this index to documents that is to be found in the document books as a part of the document book or as a part of the evidence. It is a matter of convenience to the Tribunal in locating the document and in having the advantage of what the Prosecution contends the document may establish.

However, the Tribunal would not wish to have before it something that might mislead it into an erroneous conclusion as to the contents or the significance of the document. It seems to us that the problem can be met if, from time to time, when a document is offered by the Prosecution, and counsel for the Defense feels that the index memorandum is not a proper identification, if you will merely suggest to the Tribunal—and that may be done without argument, of course—that you wish to challenge the index description, we shall note a question mark opposite it, and when you get into the Defense we can come back to it and afford you adequate opportunity to suggest what correction should be made, to the end that the Tribunal may not be misled by an erroneous or mistaken index.

We would hesitate to impose upon counsel for the Prosecution at this time the burden of translating these indexes, and I may say that would likewise be our policy with respect to such documents as the Defense might subsequently offer in as much as we know informally that there are members of the Defense staff who know the English language,

and members of the Prosecution staff that have some familiarity with the German language.

I say we would hesitate to impose the burden of translation of these matters because, after all, they are not a part of the evidence. They are only for the convenience of the counsel and the Tribunal, and are really not a part of the official record of the proceedings. But we will invite you, whenever you think that a description contained in the index is erroneous, to direct our attention to it, and we shall mark it as being subject to correction and afford you an opportunity, when you get into your Defense, to make a showing as to what you think the Index should be, to the end that we may not be misled by an unquestioned or unchallenged memorandum in the hands of the Court.

DR. PRIBILLA: Mr. President, I thank you very much. This takes care of my question completely. For the record, I merely want to make one more statement. The translation was that the Court considered the Index as "part of the evidence". However, from what Mr. President said later I found that the Court said that the Court "will not consider the Index as part of the evidence."

THE PRESIDENT: That is correct.

DR. PRIBILLA: The second remark; May I then ask you, please, to put your question mark immediately now at the document that I mentioned?

THE PRESIDENT: That is document NI-65001. The Tribunal will make a memorandum to the effect that, at the proper time, counsel for the Defense will wish to point out wherein the Index is inadequate or incorrect.

MR. ANCHAU: Book 34, if Your Honors please; the second book on Explosives.

As Prosecution Exhibit 599 we offer in evidence NI-7771, a cover agreement between the OKW and the DAG in connection with the construction of certain plants. What we call attention to, particularly, in this agreement is the preamble and the recital of a series of orders in connection with the production of explosives.

Page 1, if your Honors please; page 1 of the German book. In the middle of the first full paragraph. The plants are identified as Doornitz, Guessen Hessisch-Lichtenau, and so forth. "The plant will be taken over by" and then there is the name of the Montan subsidiary acting for OKH, and it is to be leased to this main subsidiary, which your Honors will get -- or, I think, you already had evidence that the subsidiary MON is a subsidiary of DAG.

Page 2, which is the German page 2: You get the recital of the orders; in 1934, under I, and then you have "a)...1,000 tons of trinitrotoluene..." Three shifts, 25 working days. "A filling plant for filling bombs, with a capacity of 1700 tons." And without going into detail, further down, on II again, 1934, "additional orders.... 800 tons."

We turn to the next page; you get additional recitals. It is a preamble, as I said, that we are calling attention to, and you see the products trinitrotoluene on page 4, which is at the bottom of page 5 of the English book. Notice in 1935, and supplemented by an agreement in 1937, a plant for the production of trinitrotoluene with a capacity of a thousand tons per month. No. 2, a filling plant to fill grenades and bombs. No. 3, plant for the production of picric acid...and right down the line.

I think all of the preamble that I call attention to extends over to page 5 of the detailed recitals of orders in years prior to the date of this contract. It is Prosecution Exhibit 600.

I might call attention to page 9, if your Honors please, which is page 13 of the German book. The parties to the contract Dynamit Nobel and the Army High Command. And the signature of Mueller.

As Exhibit 600 we offer in evidence NI-7772, a cover agreement between the Reich War Minister and Wasag, the subsidiary of DAG re the construction of a plant for the production of Nitroglycerine. The date is interesting: 7 November 1934. At page 11, if your Honors please, which is page 14 of the German book, under Article 1, the firm

undertakes to establish a plant for the manufacture of nitroglycerine, nitroglycerine raw powder material and nitroglycerine powder.

Now, at page 12, which is at page 15 of the German book, on the top of the page: "However, it has to be provided for that instead of nitroglycerine, nitrodiglycol can also be used...." again indicating that nitrodiglycol is being used as a substitute for nitroglycerine.

At page 15, if your Honors please, page 18 of the German book, under 1): "The activities of the Deutsche Sprengchemie G.m.b.H will be limited exclusively to the purposes of the Reich War Minister."

And at the bottom of the page, the date is November 1937.

As Prosecution Exhibit 601 we offer in evidence NI-4498, an agreement between I.G. and WIFO with respect to the emergency plant Wolfen, dated 1937, re a concentrated sulphuric acid plant.

THE PRESIDENT:ardon no, counsel, your index indicates that NI-4498 is already in evidence.

MR. ALCHAN: That is an error, as I understand. As I indicated we intended to use the books on Plants before Explosives & Poison Gas, and we so arranged our index. The Plants discussion will come after the Poison Gas discussion.

THE PRESIDENT: Very well then, that will have No. 601.

MR. ALCHAN: That is correct, thank you.

Page 18, if your Honors please, which is page 22 of the German book. This is the subsidiary—or, rather, WIFO—writing to I.G. Farben in April 1937. The second paragraph. The subject, incidentally, "Extension of the Oleum Factory Contract." If your Honors will look at the chart, in the middle of the chart, at the top is Pyrites; directly underneath it Contact Sulphuric Acid; and directly under that Sulphuric Acid Oleum. That is what they are referring to in this document 4498: the Oleum factory, concentrated sulphuric acid.

Paragraph 2: "We confirm that the new plant to be set up will be erected solely for the purpose of the Wehrmacht, that is for the 'A-Fall', and that it would be contrary to the meaning of the

contract if the products manufactured in the new plant were used for other purposes as well, or if they were used for the purposes of the Wehrmacht so long as the requirements of the Wehrmacht can be fulfilled by the I.G. from its own factories."

This then apparently is an emergency plan to take care of any deficiency that I.G. Farben cannot supply with respect to concentrated sulphuric acid.

As Prosecution Exhibit 602 we offer in evidence EC-144. It is a memorandum from the I.G. Farben files dated February 1939, re the importance of sulphuric and nitric acid in the production of explosives and mineral oil. It is an interesting document, if Your Honors please, because it discusses some technical things in a way that is readily understandable. At page 19, if your Honors please, in the middle of the page. Incidentally, the heading is the "Progress in the Supply of Chemical Raw Materials, since the seizure of power, 1933, especially through the Four Year Plan," and the note at the top that this memorandum was "handed to Major Dref" who, I assume, is some military official. At the bottom of page 70 of the German Book, page 19 of the English: "We do not have any sulphur deposits in Germany for German coal contains little sulphur (about 2-5%). These amounts of sulphur formerly escaped into waste gases of the carbonization of coal and were burned together with them. We can find the same waste gases containing sulphur in the hydrogenation plants which have been established." The relationship between the synthetic production of mineral oil and the hydrogenation plant, and the use of waste gas to produce sulphur for sulphuric acid.

A few lines down: "Tremendous progress, especially through the Four Year Plan, has been made in the de-sulphurization installations which were according to all sorts of processes."

In the last paragraph, which is page 71 of the German book: "Up to now, sulphuric acid has been produced mainly by the roasting of

Pyrites, of which Germany can only cover about one-fifth of its own demand." You will note, in the center of the chart, pyrites, up on the top, as a source for sulphuric acids. "The remaining four-fifths were imported, mainly from Spain. In the chemical industry, sulphuric acid has a similar importance as iron has in the machine and construction industry; therefore, any progress in the raw material supply from indigenous sources is welcome from the point of view of military economy, especially as sulphuric acid has become indispensable--" those are Farben's words--"in the production of powder and explosives, as well as in the mineral oil and fertilizer industries. Thus, the German chemical industry took up plans which had been used during the World War because of lack of raw materials, namely the production of sulphuric acid from German gypsum."

Your Honors will again please note at the chart, "German Gypsum," at the extreme right, or rather gypsum as being a process from which sulphuric acid is being made to compensate for the lack of Pyrites, as a source...

"One plant for the production of sulphuric acid on the basis of Gypsum is already working very satisfactorily." And then they indicate that cement is a by-product. In this connection, attention can be drawn to another very important raw material for the production of powder and explosives, namely nitric acid. And then they describe the way of production of nitric acid. Your Honors will please look at the chart over at the left, under High Explosives, you will see Nitric Acid Dilutes, and then lines coming to the right: Concentrated Nitric Acid. That is about one-third from the bottom of the page, practically in the middle, on a line directly below Line: Concentrated Nitric Acid.

At the top of page 29, which is 72 of the German, the capacity of the installations which are of special interest to the military economy has grown to ten times its former production since the seizure of power. Two paragraphs down there is a discussion of plastics in the relation to the military economy, textiles. And, down at the bottom,

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the last paragraph, your Honors will note the relationship between the fields of mineral oil--that is page 74 of the German--and fuel--also fall within the chemical industry. And the production of Benzol. And then this significant sentence: "In 1932 we could count on a mineral oil production of 886,000 tons from indigenous raw material sources. The main part of the fuel required in Germany was imported." That is an I.G. memo.

"The motorization promoted by special order of the Fuehrer and the German increase in fuel consumption of all kinds caused by it caused German production to be enlarged to such an extent" — page 37 — "that the output of fuel can now be estimated as a total of about 3,300,000 tons."

Then a reference that this is a ten-fold increase.

At page 21, toward the bottom of the page, after the figures, page 77 of the German book, "The main part of the increase is due to a ten-fold increase of hydrogenation and synthetic capacity."

That is February '39.

As Prosecution Exhibit 603 we offer in evidence H1-7637. This correspondence in September of 1937 between the Ministry of Economics and C&W re the operation of the Melbeck plant and the production of concentrated sulphuric acid.

Page 22, if Your Honors please, the date September 1937, "Nitric Acid Plant Melbeck", the first paragraph, that is page 83 of the German book, "In consequence of an inspection of 26 August 1937 of the nitric acid plant under construction at Melbeck-Emsen it was decided that the storage space planned at the moment for ammonia and concentrated nitric acid was insufficient. The storage capacity is reckoned on an eight day basis."

And again, if Your Honors please, on the chart, "The position of concentrated nitric acid in the high explosive picture..."

At page 23, if Your Honors please, page 84 of the German book, item II, "Commencement of Operations at the Melbeck Plant". This is September 1937. "In contrast to the stand-by plants previously erected for the production of concentrated nitric acid, the Melbeck plant lies at a great distance from all the industrial centers concerned. Particular difficulties would therefore be encountered in setting it into operation when mobilization begins." In 1937.

The next paragraph: "The present scarcity of concentrated nitric acid has led to the leasing of the Piesteritz stand-by plant to the

I.G. Farben Industrie A.G. for the peacetime production of nitric acid. According to the information available here, it may be assumed that the peacetime nitric acid requirements will rise still higher in the coming years. As the commencement of operations at Piesteritz when mobilization starts involves fewer difficulties, in contrast to Melbeck, it seems suitable to lease the latter plant — that is Melbeck — "to the I.G. Farbenindustrie for peacetime production when it is complete and to close Piesteritz to this end. In view of the northwest Germany explosives factories' high requirements of nitric acid, such a solution is recommended."

And then the next paragraph: "The I.G. Farbenindustrie is concerned in an effort not to allow any outsiders to penetrate into the nitrogen industry."

And just one paragraph further down, page 85 of the German: "The Wehrmacht could enforce the supply of nitric acid from Melbeck through pressure on the explosives supply firms."

Page 24, which is 86 of the German book: "Information is requested as to whether the suggestion of the peacetime operation of Melbeck would be agreed to for the sake of guaranteeing preparedness for mobilization. If this should be the case, you are requested to arrange a discussion with I.G. Farben and the other companies."

As Prosecution Exhibit 604 we offer in evidence NI-7568, memorandum of I.G. Farben to the effect, that the Melbeck plant, which we just discussed, for concentrated nitric acid is now operated — I am in error. This memorandum is from the records of the War Ministry and not from I.G. Farben, page 24, if Your Honors please, page 92 of the German, November 1938. This is a War Ministry Record. It is a memorandum on the inspection of the Hoko plant — that means highly concentrated — my understanding is that it means highly concentrated sulphuric acid; that is the German of "hochkonzentriert" — concerning the inspection of the plant for the production of highly concentrated acids at Melbeck-Babsen, and the concentrated sulphuric acid plant and of the explosives

factory Kruesmel, of the pyrite depot.

The second paragraph that I call Your Honors' attention to, on page 92 of the German -- this is the Army Record: "During a conversation with Dr. Dickmann of I.G. Vermittlungestelle concerning the securing of labor requirements for the Hoko-B plants" -- concentrated nitric acid -- "in the mob-case" -- that is mobilization -- "several laborers working on the building site at Melbeck and a few of the SS men who are keeping guard have expressed their willingness to remain as workers in Melbeck when the plant comes into operation. Dr. Dickmann invited attention to the following:" -- this is November 1938 -- "During the period of tension Dir. Dr. Mueller (Dynamit A.G.) had come to see him and had suggested that in the event of mobilization the I.G. should give up some of the workers who are working in the I.G. in nitrating and similar plants to the D.A.G." And then: "In the event of a mobilization the D.A.G. would be short of approximately 50,000 workers to bring their factories to a maximum production. At that time the I.G. was willing to support the D.A.G. in this matter but declared they were not in a position to supply from their works the full number of workers required by the D.A.G."

As Prosecution Exhibit 605 we offer in evidence NI-7775, a letter from Wifo to D.A.G., dated April 1937, re the concentrated sulphuric acid plant at Kruesmel.

Page 28, if Your Honors please, page 95 of the German: "Extension of the concentrated sulphuric acid plant at Kruesmel." In April 1937.

Second paragraph, it is addressed to D.A.G.: "We confirm that the new plant to be set up is for the purpose of the Wehrmacht exclusively, that is, for the A-Fall, and that it would be against the meaning of the agreement if the products manufactured at the new plant were also used for other purposes."

We have seen a similar clause in the other contract.

As Prosecution Exhibit 606--

DR. PRIBILLA (Attorney for defendants Lautenschlaeger and Jeahne):

Mr. President, I would like to make the request that the Tribunal should place a question mark next to the document in the margin, since in my opinion the document does not say anything about the production of explosives.

THE PRESIDENT: Will counsel please identify the document to which he refers?

DR. FRIBILLA: I am referring to the document mentioned by the prosecutor, NI-5894, which is to be Exhibit 606.

THE PRESIDENT: Thank you.

MR. AMCHAN: As Prosecution Exhibit 606 we have offered NI-5894, the meeting of technical directors of Hoechst in February 1937. Defendants Lautenschlaeger and Jaehne are present.

On page 29 — it is February 1937, Lautenschlaeger and Jaehne present. We will give evidence at a later time as to just what these technical references are, the second part dealing with Chloro-acetophenon, I am informed, relates to tear gas, but that is not testimony and, as I say, we will have a further explanation on that.

As Prosecution Exhibit 607 we offer in evidence NI-5945, the meeting of the commercial committee of 11 August 1935. The defendants Schnitzler, Oster, and Kugler. Will Your Honors note in the index, please, Kugler is present, and it relates to his discussion of mercury and its use in explosives. That is NI-5945. It is at page 106 of the German book. The document requires no further elaboration.

As Prosecution Exhibit 608 we offer NI-7402, a copy of an agreement between I.G. Farben and OKH, signed on behalf of I.G. Farben by Ambros. It is dated 4 November 1939, re the production of N-4 salt.

I may have to run ahead of myself and suggest to Your Honors that on page 40, which is another document, there is a reference to N-4 salts. It is at page 128 of the German book, and the preceding page 39 indicates that N-4 salt is being discussed under the general heading of "Explosives" and for present purposes I think that is enough identification of N-4 salts as an explosive.

As Prosecution Exhibit 609 we offer in evidence NI-6790. It is a report of 9 February 1939 by the Army Ordnance Office and comes from the files of the German Office of Economic Expansion and gives the status as of that date, February 1939, of the explosives production and capacity of the various plants in Germany. It is a fairly complete document and there are certain references with the Court's permission that I would like to call attention to.

THE PRESIDENT: Would it be a serious interruption to recess before counsel starts on that?

MR. AMCHAN: It would be very advisable to recess at this point.

(A recess was taken until 1330 hours.)

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Court No. VI, Case VI

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, September 21, 1947)

THE MARSHAL: The Tribunal is again in session.

If Your Honors please, may I refer again to Book XXXIII for a moment, and this is Document NI-6931, NI-6931 is already in evidence as Prosecution Exhibit 256. I should like to ask Your Honors to please note my discussion in connection with 6931 immediately following 4634, which appears on page 5 of your index.

No. 4639 deals with substances for decontamination of weapons and it is in that connection that I would like to discuss 6931, which already is in evidence, as Prosecution Exhibit 256. This document refers to a substance known as losantine, which is a substance for decontamination of weapons. The page dated March 1939, if Your Honors will please turn to page 3, March 1939, "Subject: Reasons for Erection of a new building for the purpose of increasing the production facilities for Losantine Tablets, also for the Mobilization Project." The section that I am about to call your Honors' attention to are quite significant.

About six lines down, "The first order assigned to us on 9 December 1935 was for 7,500,000 tablets and the second order for 102,500,000 tablets, was received on 30 July, 1936. The initial production, or delivery, was, in accordance with the delivery time given to us, 300,000 tablets daily. At the end of 1936, we were asked to increase daily production to 500,000.

Passing further down three lines from the second paragraph, "We stated that, with a 16-hour working day, about 10,000,000 tablets could be produced monthly, but that this production could be increased by the provision of a suitable room. The last sentence -- "The orders on hand at this time amounted to about 10,000,000 tablets, which were to be delivered by 30 September 1947. The actual delivery date was 31 August 1947.

At the last of page 4, the last two lines, "Rather it was possible, besides the current orders of the ONH for 90,000,000 to 70,000,000 tablets, to proceed also with the orders for the Chief Veterinary Depot."

And the last sentence, "Accordingly, the order for 70,000,000 tablets will be delivered in the first half of May and the plants will have shown that they meet the mobilization project demands placed upon us."

The following page 6 indicates the date of a letter from I.G. Farben to the Armament Office in connection with the same thing and I call your attention to the fact that a copy of this went to Defendant Puergin and that the letter itself was signed by the Defendant Schneider. A stupendous quantity at this date, 110,000,000 tablets is, we suggest, quite significant."

THE PRESIDENT: Counsel, not tempting you to testify but I would personally be interested to know what you understand Iosantine tablets to be.

MR. AMCHAN: The reason, if Your Honors please, is that Iosantine tablets is a substance for decontaminating weapons and serves as a neutralization in the event mustard gas may have any effect on the weapon. It is further testified to, but as I say my information is that it is a substance for the neutralization of the effects of mustard gas on weapons.

THE PRESIDENT: Very well, I seem to have overlooked noting the exhibit number of this document.

MR. AMCHAN: 256, which is already in evidence. While we are on Book XXXIII, it might be helpful to just make one reference to the Ambros letter that counsel referred to. We have ascertained the source of the document.

THE PRESIDENT: Perhaps you had better identify the document by its exhibit number.

MR. AMCHAN: It is Prosecution Exhibit 438, which is MI-5687. That is on page 5 of the document book. Your Honors will recall that is the letter of the 27th of June, 1938, addressed to Krauch which I indicated this morning was a letter signed by Ambros, and counsel for Defendant Ambros raised some question. Our information is that this document and -- what we have is a photostat which is a copy. It is not signed. It has Dr. A-KR, and it appears on every page. As to the source of this document: It comes to us from British intelligence, we found this document in the files of I.G. Farben-Ludwigshafen and for the record I thought in view of the discussion this morning it might be advisable to indicate the source.

THE PRESIDENT: Is there a certificate to that effect in the folder?

MR. AMCHAN: My understanding is --

MR. SPRECHER: Your Honors, there will not be a certificate to that detailed effect in the folder, because in most cases we are not able to indicate such a thing, but by checking with someone who happened to know partially the history of this particular captured document. Mr. Amchan was able to make that statement this morning.

THE PRESIDENT: In view of the fact that there has been an objection, the Tribunal would suggest, if you have any way of giving any proof to that effect by certificate or otherwise, it might be well ordinarily if we have it indicated; before counsel for either side makes a statement to the Tribunal as to the source of a document or any other collateral issue and there was no challenge to the statement, we accept it as a fact, but the prosecution as we can understand is confronted with a different situation here in that a challenge has been made in the record by a counsel for defense. I just call that to your attention. There is nothing before the Tribunal under the present proceedings, but it might be well for you to bear that in mind, if there is an issue subsequently in that connection.

MR. SPRECHER: Your Honor, since that point has been raised, I think that normally the prosecution under similar circumstances, if I may be permitted to give our view, would wait until the Defendant Ambros or witnesses on his behalf had testified concerning this document, or witnesses on behalf of the Defendant Krauch, since obviously he was involved. And then, if at that time either of those defendants or the witnesses on their behalf threw any substantial amount of doubt as to the authenticity of this document, we would then feel that we should go further and in this particular case, we indeed, are very well prepared to, because Mr. Amchan just informs me that the lady investigator who found this document had been in contact with him. We will be able to have a certificate from her, but normally speaking, we would think that until the defense by other than an objection -- by some indication has challenged -- by some indication of fact -- by some testimony or by another affidavit had challenged the document, the normal certificate would cover the situation.

THE PRESIDENT: Well, that would appear to be orderly procedure. The only purpose of the Tribunal in making the comment just made is to remind you not to forget that there may be a challenge of this document, in view of what counsel for the defense stated this morning.

MR. SPRECHER: Thank you very much.

MR. ANCHAM: Book 34, if your Honor please. I believe we had already offered in evidence as Prosecution Exhibit 609, NI-8790 which appears at page 39 of the English of the English Document Book, page 126 of the German book. It is a report dated 9 February 1939, from the Army Ordnance Office concerning the status of the explosive factories and production as of that time.

Page 39, if your Honors please, the heading -- it is a Report on the journey made together with representatives of the Army Ordnance Office, 31 January to 3 February 1939, -- the situation concerning Explosives, Toluol, Chemical Warfare Agents. The date 9 February 1939. Under 1 you see Hexagon, I.G. Farben, Ludwigshafen. Under 2 you see Hexagon WASAG, (a DAG subsidiary) I.G. Farben Ludwigshafen. Under 3 M - Salt, I.G. Ludwigshafen.

Mr. Spracher calls to attention to the facts, respect to WASAG, indicating that it is a subsidiary of Dynamit A.G. He says, in fact there is proof that it is a subsidiary of I.G. Farben directly.

No. 3 - I.G. Farben Ludwigshafen and WASAG.

If your Honors will turn to page 41, the summary of the situation, page 129 of the German Book, under 3: "Everything goes to show that these demands can be met after 1940 on the basis Trinitrotoluol as well as on the basis Hexagon if developmental research is carried out systematically."

Distribution: Dr. Krauch.

The second subject is Toluol. And then again I call your Honor's attention to I.G. Farben's Ludwigshafen, further down, next page, 42, I.G. Farben Ludwigshafen. And under 4: "Toluol comes from highly aromatic aviation fuel." At the present stage of the process a production of two million tons aviation fuel yields approximately 300,000 tons of Toluol, indicating, I take it, that Toluol is directly connected with the expansion program of synthetic gasoline. Then, some more technical points, all the direction of I.G. Farben

Ludwigshafen for Toluol.

Page 15, if your Honor please, which is 136 of the German Book, the general summary of Toluol: "The efforts by the industry" -- and your Honors have seen who constitute the industry -- "to open up new ways for an increased Toluol production have been successful. And then they indicate under 2-a, various ways of producing Toluol: "a) Toluol through high pressure hydrogenation of pit coal (I.G.)"

Number 4: "Toluol synthesis, opens up new and amazing possibilities for planning in the field of explosives, which, in cooperation with the Wehrmacht, will be taken into consideration when planning beyond the rapid plan and which will, in practice, satisfy even highest demands in regard to the production of explosives."

On the next page, 16, if your Honors please, page 137 of the German Book, the situation with respect to chemical warfare agents and intermediate products. I.G. Ludwigshafen, Omega Salt. There is a document in Book 35, 8580, which is an affidavit by Dr. Wagner. It is in Book 35, at page 5, which identifies Omega Salt as being Chloracetophenone, which is Tear gas. As I say, Dr. Wagner, in the next book, identifies that as a code name for Tear gas.

Under 2 -- this is a poison gas chemical warfare summary -- again I.G. Farben at Ludwigshafen, Up Salt. The same affidavit, NI-8980, Book 35, at page 6, identifies this code name, Up Salt, as being Nitrogen Mustard gas. I.G. Farben at Ludwigshafen. And then the reference there. "In Amendorf there is now a 30-ton per month experimental plant for the production of Up "alt" and Nitrogen Mustard gas. This is February 1939. The experiments with this were carried out thus far by Orgacid. You will hear the connection between that and I.G. "But since considerable difficulties have arisen which Orgacid alone cannot cope with, I.G. was recently utilized again to a considerable extent."

And at the next page, which is 138 of the German Book, top of

the paper: "In May 1939 a decision will be made as to the construction of a large-scale plant." That is Nitrogen Mustard gas they are talking about. "It is planned to make provisions at Huls for a capacity of four to five hundred tons per month."

Now in 3, Ethylene Oxidation. Your Honors will recall the chart. Ethylene Oxide, directly above Powder, four lines up. You recall the heavy line proceeding to the right, Thiodiglycol, and chemical warfare agents.

Page 47 of 8790, I.G. Farben, Ethylene Oxidation. They are talking about French patents for Ethylene Oxidation and the production of mustard gas.

Further down, under 4, 110 of the German Book, I.G. Leverkusen, continues with Thiodiglycol esterification. Thiodiglycol, I am informed, is a process by which Thiodiglycol, noted in the box is converted to mustard gas. This is under the heading of the Army Office Report, chemical warfare agents.

At page 48, at the top of the page: "The process for the continuous esterification of thiodiglycol into oxal-L is being worked on high pressure." It is page 110 of the German Book, and they are referring to I.G. at Leverkusen.

Number 5: I.G. at Leverkusen, D-L reduction - Direct Lost mustard gas. In the chart over to the right, immediately above chemical warfare agents, you see D-Ester, and at the left in boxes, O-Ester. D-Ester stands for, I am informed, Direct Lost, and O-Ester for Indirect Lost.

Under 5, I.G. at Leverkusen: "The experiments for the production of D-L" (direct Lost) "were shelved for the time being. They are to be resumed after completion of the oxal esterification experiments. The process has been carried to completion on laboratory basis. One can count on completion of the large-scale experiments by the end of 1939." This report is of February 1939. The last paragraph, under 5,

which is at page 140 of the German Book, with respect to Leverkusen and D-L production: "In order to accelerate the extremely important chemical warfare agents experiments and also in order to have chemists and technicians for the large-scale plants ready at the proper time, the I.G. has been requested to increase substantially the employment of personnel in connection with this work."

I just call your Honor's attention to the other enumerations, various raw materials in the production of poison gas of I.G.

Page 49 of this document, at page 141 of the German, under Summary: "The development work for Up-Salt" (Nitrogen Mustard) "and Oxol-L" (O-Ester) "is progressing according to schedule and will be completed on time for the large-scale plants. For the questions of the D-L a still greater employment of chemists is desired, although here there is still sufficient time for development before one can begin with the construction of the large-scale plants. The basic questions of raw materials and processes, in order to develop the chemistry of chemical warfare agents into a modern chemical technology, have been solved in principle." And the reference, I take it here, to this Army report is that it had been solved in principle by industry, and the enumeration indicates that it has been solved by I.G. Farben.

The balance of the document, if Your Honors please, -- it is a long document -- but as you glance through it you will notice the enumeration of I.G. Farben plants for particular purposes, according to the commodity needed in connection with the explosives, gunpowder, and poison gas. This, I indicate again, is a representation of the facts coming not from I.G. Farben, but from a military office of the German government.

As Prosecution Exhibit 620 we offer in evidence WL-8846. A report dated 7 August 1939, same source as the previous document, and it shows the status of explosives, production requirements according to plans. It is an extended chart and table for which it would serve no purpose to go into detail. I call your Honors' attention, however, to page 104 of the English Book, 208 of the German. It is a Memorandum concerning a conference in the Office of German Raw Materials, in November 1936. "In order to determine the said requirements of Wasag the representative of this company gave the following figures." And then under 1, Reinsdorf, your Honors will note "Nitropenta". Nitropenta, if your Honors will glance at the chart again, under "Explosives", the box at the right, -- right next to Hexogen -- Nitropenta being one of the explosives, -- high explosives. So in November 1936 they were discussing high explosives.

At page 106, if your Honors please, page 211 of the German Book, Section 3, Chemical Warfare Agents: "Ministerialrat Dr. Zahn made the following statements concerning the situation with regard to the production of chemical warfare agents:
this was again November 1936.

1. Mustard Gas. The plant in Amendorf is putting out 10 tons per day, 3,600 tons per year; it is to be enlarged by one-third (ready in 1937), 5,000 tons per year. Stocked in Amendorf are 1,000 tons of oxol, equal in capacity to 1,000 tons of mustard gas. The finished mustard gas goes from here to the filling stations. In order to cover the present requirements of 60,000 tons per year, there must, therefore,

be built an additional three plants, with 20,000 tons per year." This is Mustard gas.

Page 107, at the top of the page, 211. Chloro-acetophanone. My information is that that is a Tear gas. There will be evidence on that. And Ludwigshafen has enumerated capacity in the discussion of increasing that. That is November 1936.

As Prosecution Exhibit 611 we offer HL-7745. It is an affidavit of Dr. Jacobi, who is a former official of I.G. Farben. He was an official on the International Nitrogen Cartel and the I.G. representative on the German Nitrogen Syndicate. He tells us something about the International Nitrogen Cartel after 1936.

At page 111, if your Honors please, page 216 of the German Book, the first paragraph: "In the Spring of 1930 the German Nitrogen Syndicate together with the British and Norwegian industry, invited the European and Chilean Nitrogen industries to a conference and submitted at that time proposals for an International Cartel. The conference was held under the chairmanship of Lord Mellohatt, and Dr. Schmitz of I.G. Farben took a leading part in the negotiations which resulted in the establishment of the first international cartel agreement." That is, Nitrogen. Then he says: "Dr. Schmitz of I.G. Farben was unanimously elected president of the International Nitrogen Cartel."

Page 112, if your Honors please, which is page 217 of the German Book: "The cartel agreement also required each of the members to give to the cartel detailed figures on its production capacity, and monthly figures of actual production and inventory. This information furnished the basis for fixing the sales quotas of the respective members. Dr. Buetefisch, of I.G. Farben, worked out the technical details whereby uniform standards were established upon which the production capacity of each member was determined."

I might pause and say that this indicates that the International Cartel by virtue of this arrangement knew the production capacity and

facilities, world-wide, of every member of the Nitrogen cartel.

And then Dr. Jacobi continues — he is speaking of Dr. Bustefisch: "He was head of the technical committee of the cartel which visited the plants of the members and conducted an investigation and certified the production capacity of each of the members. This technical committee was empowered to conduct a similar investigation of its members' production facilities at any time. Each member knew, therefore, what the Nitrogen production capacity of every other member was. In 1938 there was much talk of war among the members of the cartel, and I recall the following significant events which gave rise to such discussion: After the invasion of Austria in March of 1938, I.G. Farben and the German Syndicate asserted that Austria was now part of Germany and should be treated by the International Cartel as belonging to the domestic German market. The other members considered Austria as belonging to the export market and declined to agree that it be considered as the domestic market of Germany. In the renewal in July of the cartel agreement, a clause was inserted to take care of the matter which was drawn in such a way so as to take care of the situation which arose after the Czechoslovakian invasion. 1938 was especially significant, for it was in that year that the German Nitrogen Syndicate advised the International Cartel that it could not deliver sufficient Nitrogen to meet its full export quota and sold its quota rights to the British and Norwegian members. The reason given at the time was that German consumption of agricultural Nitrogen had so increased as to leave no surplus available for export. As we all had the monthly production figures of each member, and the members assumed that honest reports were furnished, we in our discussions appraised the situation as indicating that the German Nitrogen production was being diverted principally for synthetic gasoline and explosives."

I must ask your Honors' indulgence if I am reading one or two paragraphs at length, because I think it is quite important. It is a

long affidavit, but I read its pertinent parts. Dr. Jacobi continues:

"After the Munich agreement in September 1938, the talk of war in the cartel was no longer academic. The International Nitrogen Cartel, with its domicile at London, had substantial assets, the beneficial ownership of which was in the members of the cartel, and it was apparent to all the members that a procedure had to be taken to protect these assets from seizure in the event of war, for England was sure to be involved. The members then agreed upon the following procedure: " -- This is right after Munich, September 1938. This is the International Nitrogen Cartel. "The members agreed upon the following procedure: a Norwegian company, the counterpart of the London company, was set up in Norway as Norway would not be involved in the war. All documents transferring the bank accounts and assets to the Norwegian company were drawn." This is right after September 1938. "Anticipating communication difficulties in the event of war, the members appointed an agent with authority to decide when to transfer the assets to the Norwegian company, and when to cancel the cartel. On August 22, 1939, when Ribbentrop went to Moscow, the cartel transferred its assets to the Norwegian company, in accordance with the procedure previously arranged. On September 3, 1939, the cartel was cancelled and liquidated through the Norwegian company. Dr. Schmitz, during the period of time, was President of the International Cartel and personally participated in the meetings when these matters were discussed. In addition, he always received the minutes of the meetings and all other notices. Dr. Oster " -- the defendant Oster -- "was also informed of these matters."

These are practical steps taken right after Munich in which the defendant Schmitz participated to protect the assets of the International Cartel in London in the event of war.

(Interruption) I am sorry, your Honors.

As Prosecution Exhibit 512, if your Honor please. We offer in evidence EL-10008, which is a table prepared by Dr. Struss showing I.G.'s

production of 18 strategic materials from 1932 to 1943. If your Honors will please look at page 115 - that is the Chart, under Nitrogen and Ammonia. We have indicated, we believe, its significance in explosives, starting with 1932 - 218,000, note increase in 1936 - 400,000. In 1938 - 520,000 - in the light of the affidavit of Dr. Jacobi that the German Syndicate for Nitrogen in 1938 performed the International Syndicate - they could not meet their quota. And your Honors will note the increase in figures in 1938 - 562,000, as against the preceding years.

If your Honors will just glance further down, at Explosives and Gunpowder, starting with 9,700, and note how we hit in 1938 - 68,700. Gasoline, - Synthetic Gasoline, 102,000 in 1932, and 380,000 in 1938. Moving down to the bottom; Methanol. If your Honors will get the significance of Methanol - it appears on a chart here; with respect to Explosives it seems to be a key position as everything seems to flow through Methanol. Starting with 13,700 in 1932, and 104,500 in 1937.

As Prosecution's Exhibit 613 we offer NI-10019, an affidavit of Dr. Struss explaining this chart that I just referred to. In the affidavit he generally indicates certain things that were excluded, so that in any event the chart is a conservative recital of the facts.

As Prosecution's Exhibit 614 we offer in evidence NI-10026, and that is the loose graph that was handed up to your Honors. It is 10026. It is entitled "Production of Strategic Materials of I. G. Controlled Companies." Now, this graph presents visually in a more graphic fashion the acceleration in the increase of production for the various products. Your Honors will note the line, "Sulphuric Acid" beginning with '32 and the steep incline until its high point in 1937. On "Ammonia" your Honors will notice the incline until it reaches practically the peak in '38. We can proceed right through with this, but it is presented as another form of the evidence contained in the chart.

On the next page, Chart 2, when you get to synthetic rubber the line is very significant. Your Honors will note on Chart 3, "Stabilizers" and one reason why some of these lines appear darker in shade than others is that the original has been prepared in color and the photostat didn't show that. But your Honors will note the rise in diglycol, stabilizers and sulphur, etc. and I think the chart does indicate a rather significant relation between the policy of production in relation to the particular dates when political affairs of certain types controlled.

As Prosecution's Exhibit 615 we offer NI-10010 which is a chart prepared by Dr. Struss showing the dependance of the Wehrmacht on I.G. Farben's production of strategic war materials. On Page 125, if your Honors please, we have the chart. This is in percentages now: Nitrogen, I. G. Farben, 75 percent of the German total production. He hasn't got the figures on diglycol. Explosives, Farben, 64 percent - that is high explosives - of the total German production. Gunpowder, 70 percent by Farben; lubricating oil, 100 percent; Tetraethyllead, 100 percent; synthetic rubber, 100 percent; magnesium, 88 percent. Further down, Stabilizers for gunpowder, 100 percent; Methanol, 100 per-

cent; Plasticizers, 92 percent. The dependance of the Wehrmacht on I.G. Farben.

The last document with respect to explosives, as Prosecution's Exhibit 616 we offer NI-10580. This is an excerpt from the United States Strategic Bombing Survey made in January 1947, with respect to powder, high explosives, war gases, etc. There are some very interesting preliminary matters and explains, I think, quite well the interrelationship between Farben's synthetic gasoline, synthetic oil, rubber and explosives and chemical warfare agents.

At Page 129, if your Honors please, which is Page 232, under the subject matter, "Powder and High Explosive Industry," the U. S. Strategic Bombing Survey stated: "For a clear appreciation of the effect of strategic bombing on the German powder and explosives industry, a knowledge of the interrelation of this industry with, and dependance upon, the synthetic ammonia, methanol and oil industry is necessary." The next paragraph, "The production of powder and explosives was bound to the manufacture of synthetic ammonia and methanol in three ways," and one might as well glance again at the chart under "Explosives" - and see the position of Methanol at the left-hand right next to crude Benzol, the source from which all the other ingredients flow. Directly over to the right of Methanol your Honors will note ammonia, and we have described the Haber-Bosch process and the hydrogenation process for the production of synthetic ammonia.

The U. S. Strategic Bombing Survey, "The production of powder and explosives was bound to the manufacture of synthetic ammonia and methanol in three ways. All the principal explosives and propellants depended on nitric acid or nitrates in one form or another for their production. Synthetic ammonia was the main raw material for the production of nitration grade nitric acid. Two of the most modern and effective explosives, hexogen and penta--" Your Honors will note on the chart with respect to explosives hexogen and penta-penta. That is the penta referred to here. "Two of the most modern and effective

explosives, hexogen and penta, required formaldehyde, which in turn was made from methanol" - and Farben had 100 percent production of methanol - "which was also used in important quantities for the synthesis of toluene for TNT."

The further references, I will only call attention to one, are Page 133, if your Honors please, which is Page 235.

"There is evidence of development work on war gases by I. G. Farbenindustrie prior to 1939 as I. G. correspondence revealed a controversy over inventorship concerning Nicholas presumably a form of mustard gas. The I. G. plant at Leverkusen shipped thionyl chloride for the manufacture of poison gas as early as 1938 to Amendorf. Correspondence found by GIOS in the files of Dr. Ter Meer, the TEA Department and the Law Department of I. G. shows that a definite plan for the participation of I. G. in the development of the German war gas program was drawn up at a conference in Berlin in February 1939.

b. I. G. organized a 100 percent subsidiary Luranil, for the construction of plants and another one, Anorgana, for their operation. These were in reality cover names to conceal ownership and partly to relieve I.G. of responsibility, but the capital was owned by I.G."

In connection with poison gas we shall meet Luranil and Anorgana, together with the reference of the U. S. Strategic Bombing Survey that it was created for the express purpose to conceal I. G. Farben's participation in connection with the construction and operation of poison gas plants.

Under "c", "Apparently I.G. did considerable research and development work on poison gases in its own laboratories." Then there are some details, Page 135, if your Honors please, Page 53, your Honors will note a reference to losantine as a decontaminant for decontaminated nitrogen-mustard, and that is one of the sources of my information for losantine.

With that, if your Honors please, we conclude Book XXXIV, and the presentation of evidence in connection with explosives.

THE PRESIDENT: Just before you leave Book XXXIV, may I ask you for my personal information whether or not the three charts marked NI-10025 that were placed loose on our bench are given an exhibit number?

MR. AMCHAN: I am not familiar with 10025. I have here 10026. Have you a 10025?

THE PRESIDENT: Yes, a graph chart, or rather three graph charts. Could you come and get it so that we can get it in proper relationship in our books and not be confused in the future?

MR. AMCHAN: Your Honors, 10025 is an error. It should be 10026.

THE PRESIDENT: We have another one, 10026.

MR. AMCHAN: We have no intention to offer 10025 at this time, and it is obviously an error.

THE PRESIDENT: May we hand them back, and you may have some future use for them. In the meantime we will not be confused.

MR. AMCHAN: We made no reference in our index and it is an error in our file.

THE PRESIDENT: Judge Hubert appears to have a photostat identified as NI-10580 which the Chair doesn't have. I am wondering if you can identify what that may be, and whether or not you wish it in evidence or to withdraw it?

MR. AMCHAN: 10580, if your Honors please, should be part of the last exhibit, 616, which is 10580. It is an additional chart, and I am sorry I didn't have one for your Honors. It is an additional chart which appears in the U. S. Strategic Bombing Survey indicating graphically the rise in production of nitric acid and the other things in accordance with the findings of the U. S. Strategic Bombing Survey.

THE PRESIDENT: The Chair would like to make a correction, I find that exhibit in my book. I overlooked it. I am sorry, my associate on the right, Judge Morris, does not appear to have it, so, Mr. Secretary, if you will hand me the one that you first offered me I will give it to Judge Morris.

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Now, I believe we have our books in order. Thank you very much
for your help.

MR. AMCHAN: We are prepared, if Your Honors think it advisable, to proceed with the poison gas book, which is XXXV.

THE PRESIDENT: Very well, counsel may proceed.

MR. AMCHAN: Book XXXV, if your Honors please, is the first book on poison gas.

As Prosecution's Exhibit 617 we offer in evidence NI-9203, being an affidavit of Dr. Zeidelhack, an official of the Army Ordnance Office, to the effect that I.G. Farben performed most of the research for the development of poison gas for war.

Page 1, if your Honor please, second paragraph, the affiant states that, "From 1938-1943, I was Department Chief of the Industrial Administrative Department which dealt with commercial problems", etc. "From 1935 to January 1943, I was, in addition, the first manager of the firm Montanindustrie, the stocks of which were owned by OKH." That is a subsidiary corporation of the German Government.

"OKH," that is Army Ordnance, or one of the Army offices, "controlled a total of three research stations, namely," one for ballistics; one for projectiles, "and the Department of Research of Army Ordnance for all other special questions and research work. In theory, this last-mentioned Department was also responsible for the research work to be carried out in the field of chemical warfare agents. As they had been granted funds amounting only to approximately 300,000 marks per year since 1935, however, they undertook no research work worth mentioned, nor had they any practical results to show for their work as far as I know.

"The vast majority of research and development work in the field of chemical warfare agents was in the hands of the I.G. Konzern."

As Prosecution Exhibit 618 we offer in evidence NI-8980. It is an affidavit of Dr Wagner, former official of I.G. Farben's Vermittlungsstelle-W, the I.G. production of poison gas and its cooperation with Army Ordnance.

Page 5 of the English book, which is Page 9 of the German, if your Honors please, under Chlorine-acetophenone, the paragraph beginning with:

"The orders for the deliveries of Omega salt were not given to us by the competent department of the Army Ordnance because the Wehrmacht did not want any written documents about the supply of this product, as the supply of this product was against the Geneva Convention, which Germany had also signed."

And then the last paragraph, he says, "All supplies of Omega salt in the course of 1936-1941 were ordered by the firm of Dr. Nausann and delivered in the manner described above." Then he describes the manner for concealing the origin of the product.

DR. LUMERT: (For Defendant Kuehne.)

To the document just submitted, NI-8980, Exhibit 618, I would like to point to an error in the German Document Book, Page 12, in the English Document Book Page 6, Leverkusen. There it says that the work in connection with this development, "The work on the development of a process for the manufacture of nitrogen mustard gas or nitrogen mustard gas hydrochloride was started at the Leverkusen plant in about 1935. Leverkusen is an error. It should be Ludwigshafen. This can be gathered from the context, especially on the following page, and I also would like to point out that the error can also be gathered from the document, NI-6788. This is in the English Document Book XXXV on Page 31; in the German Document Book, Page 85. It is an obvious error.

It should be Ludwigshafen instead of Leverkusen. But I have just convinced myself that the original which has been submitted also contains this error. Perhaps the Prosecution has some comment about that or it can be postponed.

THE PRESIDENT: This is the type of a problem that the Tribunal had hoped might be adjuasted through the long recesses that we have been indulging, but perhaps this is a case where the error had been lately discovered. In the future we will appreciate it if you can reconcile these matters during the rather protracted recesses that the Tribunal has been granting. That, after all, is the purpose of the recess. What has the Prosecution to say about this?

MR. SPEECHER: Your honors, we are not in a position, since the affiant is not here at the moment, to check to see if the matter was actually wrong, and we are not in a position to answer immediately defense counsel's point; but it is the kind of think that we appreciate being able to take up outside the chambers, and I might say this, merely because defense counsel does not raise something like this during the course of the session, assuming they merely find it out during the course of the session, we are going to make no objection whatsoever that they later raise these things after they have taken them up outside court sessions with us, and their rights will be exactly the same as far as we are concerned.

THE PRESIDENT: The Tribunal would be very liberal in according counsel an opportunity to correct errors whenever they are discovered, even though the document may have already been accepted in evidence. As to this matter, procedure would properly be, we think, to admit the exhibit in evidence, or rather to let the admission of the exhibit in evidence stand, with the understanding that the matter may

be again called to the attention of the Tribunal after council for the Defense and the Prosecution have had an opportunity to confer in an effort to reconcile their differences.

The Prosecution may proceed.

MR. AMCHAN: We were discussing, if Your Honors please, Prosecution Exhibit 618, NI-8980. May I refer, if your Honors please, to Page 6, Page 12 of the German book, "Nitrogen Mustard gas."

"The work on the development of a process for the manufacture of nitrogen mustard gas (C_6 gase) or nitrogen mustard gas hydrochloride (C_6 salt) was started at the Leverkusen plant in about 1935." I do not recall whether that is one of the plants he raised.

THE PRESIDENT: That is specifically the objection the counsel for the Defense raised with reference to Leverkusen. We shall understand, of course, that this is subject to correct if it is found to be an error.

MR. AMCHAN: With respect to this nitrogen mustard gas the affiant continues, "The names C_6 salt and C_6 base were introduced in about 1942. Until then the description UP salt or UP base was used," according to advice from these men, in Ludwigshafen. That is the breakdown of the other name, UP salt, and when I referred a moment ago to Omega Salt, I think the indication is that this was tear gas.

Now, at the bottom of the page, if your Honors please, Page 13 of the German book, "In the course of the work at Ludwigshafen an experimental plant and later on a production plant for nitrogen mustard gas hydrochloride was established, with a capacity of approximately 20 tons per month."

Page 7, which is page 13 of the German book:

"Direct mustard gas process was developed in 1938/
1939 at Leverkusen."

I don't know whether that was brought in issue. And
then he continues in that paragraph:

"The construction of the production plant proper at
Trostberg under the control of Dr. Ambros."

And then:

"In the meantime, a preliminary plant for direct
mustard gas was maintained at Huels."

And then down to (c), which is at page 15 of the
German book:

"Adamsite, which was known under the cover name azin
and which was a poison gas (throat irritant), was developed
by the I.G. Farbenindustrie AG at the request of the Army
Ordnance Office in 1938 at Uerdingen."

And then you have the manner of concealing delivery
and production figures.

Page 8, top of the page, which is 16.

"The work at Uerdingen was under the management of
Dr. Haberland, who was at that time the works manager there,
and later, after Dr. Kuehne had been pensioned off, also
took over Leverkusen."

And, under (f) you have Phosgene, and they refer to
a factory, built by I.G. Farben in 1936/1937, with funds
belonging to the Reich, for the production of glycol,
diglycol, triglycol and stabilizers.

"As preliminary product phosgene was constantly needed
for the production of stabilizers."

And then, at the bottom of page 8, which is at the
bottom of page 17 of the German book, he refers to the Z
plant at Wolfen.

QThe chemists employed in the Z plant were under Dr. Buergin...." that's the defendant Buergin, "...in his capacity as chief of the Bitterfeld-Wolfen plant. At the request of the I.G. Farbenindustrie, the bombs filled with phosgene were removed from the works terrain on the same day, as they were a great danger to the neighboring I.G. plants, especially during the aerial warfare."

As Prosecution Exhibit 619, we offer NI 10557, an affidavit of Dr. von Klenck, who was a chemist under the supervision of the defendant Ambros, and he discusses the code names in use for the different poison gasses.

Page 10, which is page 20 of the German book:

"Special Committee C on Chemical Warfare Agents.

Chief: Ambros."

And you will also notice:

"Acid Smoke - Chief: Wurster."

In the middle then, he has some references to the building of the Sarin Works at Falkenhagen:

"I can state the following with regard to the building of the Sarin Works, Falkenhagen. On the advice of Schlober, of the Speer Ministry, the OKW planned to build the new Sarin plant..."

That's a toxic poison of which we'll hear later.

"... in Falkenhagen. This occurred despite the protests of Dr. Ambros, who considered the site unsuitable. The final decision was arrived at about May, 1943. The factory was built by Luranil...", a subsidiary, "...which turned over the surveying and construction of the buildings to the engineering construction firm in Stuttgart, etc."

Page 11, which is page 20-A of the German book, with respect to the Falkenhagen Works:

"It was changed to 'Monturon'. Monturon belonged 50% to the I.G. and as to 50% to the Montan. Ambros was the managing director of the Monturon.

"The plant in Falkenhagen was built originally for the manufacture of fog N-Stoff."

If you go down further, towards the bottom of the page, on 20-A of the German book:

"....the Monturon endeavored to get the management of the whole Falkenhagen Works, including the N-Stoff factory, actually into its own hands."

I ask Your Honors to please note this Falkenhagen plant and a reference to a contest for control of this plant in which I.G. Farben is a participant, and in a document which appears later in the book, the contestant for control of that plant is Himmler who wanted to take over the operation of the N-Stoff plant at Falkenhagen with his SS and as a document later on will show, the controversy between I.G. Farben and Himmler, for control of the Falkenhagen plant, was resolved in favor of I.G. Farben.

If Your Honors will proceed further down,

"The following works..." That's 20-B of the German book.

"The following works were known to me as production centres for chemical warfare agents:

"Omega salt - Ludwigshafen - I.G. Farben."

Proceed to the next page, in the center;

"Azine (adamsite) - Uerdingen - I.G. Farben."

Further down:

"Phosgene - Ludwigshafen, Uerdingen, Velfen - I.G. Farben

"Tabun and Sarin" toxic poison gases, "Dyherafurth - Anorgana", which is an I.G. subsidiary.

"Mustard Gas (Oxol) - Ammendorf, Huels, Gendorf - I.G. Farben or subsidiary."

"Mustard Gas (DL) - Gendorf."

"H-Mustard Gas - Ammendorf - Orgacid."

And, then, the next page, are some technical relations to just what the code names, which appeared in the correspondence, actually were.

As Prosecution Exhibit 620, we offer NI 9620, an affidavit of Dr. Murek, former official of the Reich Ministry of Economics, in which he lists all plants used in Germany for the production of poison gases. Of the seven plants listed, I.G. owned or operated six.

At page 15, if Your Honors please, which is page 21, the first paragraph, the affiant states:

"In 1933 I joined the Army Ordnance Office, first as deputy adviser and later on as adviser for chemical raw materials in the Economic Department. In 1935 or 1936 I was taken over with the department by the newly established Military Economy Office."

"2. During my activities in the field of chemical raw materials and preliminary products I came into contact with chemical warfare agents in so far as some of those chemicals, that is, chlorine, ethylene, arsenic, sulphur, phosphorus, etc., were necessary for the production of chemical warfare agents as well as other purposes.

"3. Through the demands based on requirements and through the plans of the Army Ordnance Office, which were sent to the Military Economy Office, the following plants are known to me as producers of chemical warfare agents, or intended producers:

"Ammendorf, Ludwigshafen, Ruels, Gendorf, Dyhernfurt, Falkenhagen, Hahnenborg.

"No other important plants in the field of chemical warfare agents existed as far as I know, and I should think

that there could not have been any, without them coming to my knowledge through meeting their requirements of preliminary products..

"I do not know the circumstances in regard to ownership at Amendorf."

I think we already have proof of Amendorf.

"The same holds true for Falkenhagen."

The Hissler reference and controversy I referred to will disclose why he didn't know about Falkenhagen. The preceding affidavit indicates Falkenhagen was operated by I.G.

"All other plants, with the exception of Hahnenberg, were regarded by the Military Economy Office as plants operated by I.G."

So that, of the list of seven plants, the affiant identifies Hahnenberg as not being I.G. He has no information as to Amendorf and Falkenhagen, and the record at this stage does establish Amendorf and Falkenhagen as I.G. Farben operated plants.

"The production capacity of the chemical warfare agents plants which are known to me as being the property of I.G. probably amounts to 85% of the total German production."

M.I.....

Would this be an appropriate time, Your Honor?

THE PRESIDENT: If the next exhibit may take some time, we'll rise for our recess.

(A recess was taken).

THE MARSHAL: The Tribunal is again in session.

MR. ANCHAM: Document Book 35, if your Honors please; we were referring to NL-6127 which is already in evidence as Exhibit 356. It is an order to report on the Gendorf Plant, showing Anorgana as a 100% subsidiary of I.G. Farben. We are taking this short-cut means of proving the fact that we have the contract. They are kind of lengthy but the recitals would be sufficient to establish the fact which we consider to be relevant at this time.

Page 18, if Your Honors please; page 24 of the German Book. The recital, "the management of Anorgana Ludwigshafen has commissioned us to audit the works' balance sheet as of 31 March '42 of the Gendorf and Dyanderth works, which they had leased from Montan. And then they refer to the Gendorf Works. Under paragraph 3b: "The Basis of the Contract." And, as I say, we offer the recital and the audit report as another form of proof of the basic facts. "The Army High Command (OKW) has nominated Montan as the responsible party for the Gendorf Works which were earmarked for Wehrmacht projects. Under an agreement of 18 July and 1 September 1940, Montan has leased the installation, which was set up at the expense of the Army High Command, to the Anorgana which belongs 100% to the I.G." That is an official order. "In connection with the lease contract a cover agreement was included between the German Reich and the I.G. in July 1940 in which these authorities sanction the lease contract between Montan and Anorgana. In consideration of the fact that the chemical apparatus section of the plant was constructed and built by the I.G. and that the plant is to be operated according to the process laid down by the I.G., the cover agreement contains certain provisions." And then further down: "That the plant may only be operated by I.G. or by a company which is owned 100% by I.G."

At page 20, if Your Honors please, which is page 29 of the German,

this audit report with respect to Gendorf: "The Plants covered by the Lease Contract." And again the reference to the Gendorf Works and to I.G. Farben's interest in it. And under Item 14, according to the cover agreement installations were to be built for the production of 500 tons per month of glycerine D; 500 tons per month of Oxol; 3,350 tons of DL (Direct Lost.) Further down, your Honors will note again the reference to particular items used in chemical warfare. The paragraph immediately above, a reference to an Acetaldehyde plant. If your Honors will look at the chart, please, on the line directly below Line, four columns down, Your Honors will see the Item below acetylene, Acetaldehyde, and the heavy line proceeding over to the right-hand indicating that upon some processing with alcohol, and so forth, it becomes gunpowder; further processing, poison gas. And you look back at Acetaldehyde. It also is used in explosives. So there is a discussion here, a plan for Acetaldehyde and production capacity of all these enumerated products which fit into all three pictures.

HL-5131 is already in evidence as Exhibit 337, and that, too, is an audit report on the Dyhernfurth plant. The preceding document was Gendorf. At page 24, if Your Honors please, which is page 57 of the German, under "8" the Contractual Basis, the recital and the audit report: "The Dyhernfurth Works, which is to be made available by I.G. Farben at the expense of the Army High Com and shall serve Wehrmacht purposes. The OKH has appointed Montan as manager of the undertaking. The Montan in turn has concluded a lease contract with the Anorgana whose shares are wholly owned by I.G." Further down, the "plant will only be operated by I.G. or a subsidiary which is wholly owned by the I.G."

And at page 26, if Your Honors please, page 64 of the German, under Item "16" of the audit report, recitals of the contractual basis, and in this contract I.G. confirms that it has undertaken to place at the

disposal of the company its patents, production processes and practical experience of value to the rented factory. The Anorgana on its part is under obligation to hand over to I.G., free of charge, inventions made in the Dyhernfurth Works, irrespective whether they are patentable or not, for I.G.'s sole ownership...." and so forth. Both of these documents, we submit, establish Anorgana as a hundred percent subsidiary, and the operation by I.G. directly and through Anorgana of the poison gas plants Gendorf and Dyhernfurth.

As Prosecution Exhibit 631 we offer NL-5569, an I.G. file memorandum dated 29 April 1938, showing its participation in Orgacid, and that Farben is the technical manager of the company.

Page 30, if Your Honors please, which is page 82 of the German book. Your Honors will note the date on this file memorandum: 29 April 1938. And at the bottom: Technical Management, I.G., Confidential.

In this connection your Honors will recall that the document we offered the U.S. Strategic Bombing Survey did refer to the fact that in connection with the poison gas plants, I.G., to conceal its ownership and operation, used subsidiaries, and the report mentioned Anorgana and

Orgacid. The proof now is to substantiate the U.S. Strategic Bombing Survey.

NI-6788 has been marked as I got it for identification as Exhibit 350. We offer it in evidence as Exhibit 350. It is an affidavit by the Defendant Ambros reciting from his point of view the extent of his participation in the poison gas program of I.G. Farben. There is no point in reading this affidavit at this stage. It is the defendant's own version as to his participation in the poison gas program. At the appropriate time the proof supporting or not supporting, it will be presented.

Incidentally, as I recall it, 6788 was offered in evidence now as Exhibit 350.

THE PROSECUTOR: The Tribunal so understands.

MR. ANCHAS: NI-5929 is already in evidence as prosecution Exhibit 104. It is an exchange of correspondence between I.G. in 1933 and the Reich Air Ministry, Page 43, which is page 98 of the German book, is a letter from the Reich Air Ministry to Farben referring to a French periodical about the manufacture of poison gas at Farben plants at Oppau. The next letter is Farben's reply indicating that they consider the matter as not one which shall be discussed in writing, and they much prefer to discuss it in personal conversation.

October 1933.

NI-6193 is already in evidence as Exhibit 167; notes in 1935 about aluminumtrichloride for use as tear gas. At page 47, which is page 104: Reference: Anhydrous Aluminumchloride Installation for the Powder Factory. And then they refer to the fact that the intended use for aluminumchloride will still be ascertained whether or not these would conflict with the secret agreement ... regarding the employment of a similar product which could serve the Reich Defense as smoke screen agents, smoke generators and perhaps also as irritant gas.

And then there is further discussion on that subject below:

NI-6239 is this chart that we have been referring to. We previously marked it for identification as 591. We now offer it in evidence as Prosecution Exhibit 591. That chart was drawn by the Reich Office for Armament Economic Planning as part of the report of the section of the raw material allocation for the year 1936. So, when referring to this chart it is the official chart of the production agencies in connection with armament. That chart appears in the German book at page 117.

NI-5681 is already in evidence as Exhibit 351. It is a copy of a contract of 22 July 1935 between Farben and Ambros executed on behalf of Farben and Orgacid regarding the construction of a Gendorf plant for the production of ethylene-oxide. And again Your Honors will note on the chart, immediately above Powder, four lines up: Ethylenepoxide, with a heavy line proceeding to the right; Thiodiglycol ... and down to Poison Gas. Then there is a letter from Orgacid to I.G. Farben of 9 August 1935 about the contract, and further correspondence between Orgacid and Farben.

At page 50, if Your Honors please, which is page 121 of the German book, Article 1, under the contract with the Montan Industrie, and at their expense, Orgacid shall build a new plant at Ammendorf in Munich for the production of Ethyl-oxide from Alcohol."

You will note on the chart again "Ethylene-oxide coming from alcohol" which is two boxes above. "And furthermore for the production of polyglycol M. from Ethyl-oxide. After the completion of the plant, Orgacid shall conclude a management and maintenance contract with Montan Industrie."

The date your Honors will note on the top--10 August 1935. "Orgacid shall commission the I.G., in agreement with another chemical firm, to build the plant and to make it, including the calculated estimates, structurally efficient. Moreover, the I.G.

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shall undertake to give all chemical, technical advice during building concerning the setting in motion and the running of the factory, including the experimental work which may become necessary."

Page 53, which is 123 of the German book, Your Honors will note is dated July 1935, the defendant Ambros executing the document on behalf of I.G. Farben, and immediately above that the reference to secrecy. Page 54, if Your Honors please, which is page 125 of the German book, is another document in connection with Orgacid, a copy of a contract concluded between I.G. Farben and Chemische Fabrik Buckau, Deges, and Goldschmidt, with the recital in clause 1, "Buckau and Deges are the sole partners of the Orgacid. The shares amount to fifty percent. Goldschmidt owns the majority of the Buckau." Now, these firms "are cognizant of the contract concluded between Orgacid and I.G. on July 3rd, 1935."

As Prosecution Exhibit 692 we offer--

THE PRESIDENT: I believe counsel is confused as to the respective exhibit number, which is perhaps 622.

MR. ANCHAM: I'm sorry, Your Honors, Prosecution Exhibit 622, NI-4496, which is 622 as an exhibit, a confidential letter from I.G. Farben at Bitterfeld to I.G. at Frankfurt, dated June 1936, indicating Farben's participation in the Amendorf plan. This is page 56, if Your Honors please, the date being 30 June 1936. This is 127 of the German document book. There is a reference to a discussion "on the subject of the licensing for use in Italy of a process for the production of ethylene and glycol. Glycol is produced from ethylene through ethylene oxide."

Then a little further on in the middle: "Plants will be set up at Goldschmidt's at Amendorf with the support of Ludwigshafen, namely, glycerin and also mustard gas."

NI-4490 is already in evidence as Exhibit 114. It is a note of Dr. Pistor, a member of the Vorstand, on a discussion of Dr. Zahn of Ordnance of 13 November 1936. There is reference to the chlorine situation and apprehension is expressed that there may be an insufficient chlorine supply in Case A. Reference again is made to the diglycol capacity at Ludwigshafen and to the necessity of increasing I.G. Farben's production of phosgene. The document itself explains the point.

As Prosecution Exhibit 623 we offer NI-5754, a letter from I.G. Farben, 7 December 1936, great plans for the construction of a plant for ethylene oxide. On page 59, if Your Honors please, which is 131 of the German document book - note the date, Ludwigshafen, 7 December 1936: "Re: Industrial and building police approval for the construction of a plant for the production of ethylene oxide." On page 60, if Your Honors please, which is page 132, the bottom of the page, in 1937, a letter from Farben in connection with extending the Teutschenthal Works relating to this matter, signed by the defendant Burgin.

As Prosecution Exhibit 624 we offer NI-7274, a letter of 4 March 1937 from I.G. Farben to Goldschmidt. Your Honors will recall that Goldschmidt had a fifty percent interest in Orgacid. Re: I.G. Farben's position in Orgacid. Copies of this letter went to the defendants Ambros, Ter Meer, and Wurster. On page 63, if Your Honors please, page 134 of the German book, is a letter from I.G. Farben signed by von Heider to Dr. Goldschmidt re Orgacid, 4 March 1937. On page 63, paragraph 5, 134 at the bottom of the German book, is a little discussion between Goldschmidt and I.G. as to their respective contractual rights in connection with Orgacid in this particular plant:

"Deliveries of chlorine. Clearly the clauses contained in the new existing agreement are valid only for the case for which the agreement has been made. If plant operation is begun ahead of the scheduled date, however, these deliveries are considered, as far as the chlorine syndicate is concerned, as the own consumption of Buckau, which holds officially a fifty percent share in the capital of the Orgacid. But between you, Dr. Goldschmidt, and I.G. the position must be considered to be the same as if not you but we were the holders of fifty percent of the company's share capital" - that's I.G.; it should be considered the same as if not you, talking to Goldschmidt, but we, I.G., were the holders of fifty percent of the company's share - "since we have constructed the entire plant and have put our processes and experience at its disposal." Copies of this go to Ambros, Ter Meer, and over at the

right you see "Dr. Wurster, Ludwigshafen".

As Prosecution Exhibit 623 we offer NI-7725, a series of letters in March of 1937 between I.G. Farben and Goldschmidt re Orgacid. It is in connection with the same controversy just mentioned, and in connection with this controversy I.G. Farben had to call in its chief counsel, Dr. von Knierem. At page 65, which appears on page 137, 12 March 1937, I.G. Farben is writing to Goldschmidt in regard to the contract. The writer is the defendant von Knierem. This is in the middle of page 137 of the German. "In regard to the application of the Orgacid contracts to the Amendorfer Plant now to be put into operation and that we are unable to recognize the dissenting opinion held by yourself and Orgacid." The nature of the controversy between I.G. and Goldschmidt isn't important. We cite this document for the purpose of showing the defendants von Knierem, Ambros, to whom a copy was sent, and Ter Meer having knowledge of the purpose for which Orgacid was created and the purpose for which the Amendorfer plant was created 12 March 1937.

As Prosecution Exhibit 626 we offer NI-4484, a copy of the letter from I.G. Farben at Ludwigshafen to the defendant Ambros and others. It is dated 6 April 1937. It refers to the Orgacid agreement as related to the Wolfen and Amendorf plant. No further oral elaboration of that document is necessary.

As Prosecution Exhibit 625 we offer NI-5592, a confidential memorandum of 31 May 1937 re a conference on Orgacid where the defendant Ambros is present. There is a discussion of constructing poison gas plants through Farben in Italy and Japan. At page 71, if Your Honors please, and this is page 146 of the German book, note the date, conference re Orgacid 31 May 1937. Present: Dr. Struss, who has given us affidavits, Dr. Ambros. Page 146 of the German, the middle of paragraph 1 of the English: "As a result of the cooperation initiated at Amendorf the idea came up to inquire whether either directly or through a fictitious nominee I.G. would be prepared to erect the glycol installation." Immediately above it refers to installations abroad. "Auer

itself," Auer being another company in the related field, "would then erect the converting plant, probably through a fictitious nominee in collaboration with" certain enumerated people. "Struss replies that now as before I.G. wishes to keep aloof from poison gas plants and that there is no change in the decision taken earlier."

As you proceed further down page 147 of the German, two paragraphs from the bottom, referring to the discussion taking place, they decide that I.G. would have to make its decision from case to case and the firm Auer should approach I.G. with each individual project so that I.G. could examine whether cooperation is possible. "In connection with the above mentioned matter, the two projects from ethylalene plants in Italy and in Japan are being discussed," May 1937. At page 72 Your Honors will note something which is a bit superfluous, Ambros being present. You don't need a copy.

As Prosecution Exhibit 628, NI-5693, a note to Vermittlungstelle W of 14 May 1937 with respect to the subject matter discussed in the preceding document, the construction of plants abroad for poison gas through fictitious nominees. Page 73 is important. This is a memorandum within the I.G. organization from Vermittlungstelle W addressed to the Tea-Buero, attention of Dr. Struss, and it refers to the conference. I think it might be helpful to begin at number 1, which appears at 149. "Inquiries from abroad whether German firms would take over the erection of chemical warfare agents establishments or would at least grant their assistance are said to have come in so frequently lately that the very fact of continued negative answers to inquiries from abroad would mean a renunciation of considerable profit.

"In view of the change in public opinion with regard to military questions, the standpoint stressed until now by I.G. in particular, to the effect that the erection of such establishments producing chemical warfare agents might detrimentally affect the strictly civilian business interests of our firm in foreign countries, would no longer seem to have the previous significance." Incidentally, this is a report of

what transpired at the conference and the arguments being made to I.G. why they should abandon their former position.

"Lagasse's idea as to possible cooperation in the erection of foreign establishments...is that in a manner similar to that used at home." The comparison is interesting. "I.G. more or less creates the plants for the primary products while the Auer" — that's the Auer-Gesellschaft itself — "in an arrangement analogous to that with Orgacid at home would work on the final phases of the production of chemical warfare agents." This is a studied attempt to conceal their participation in this field of work.

As Prosecution Exhibit 629, NI-4707, a secret file note of October 1938 by I.G. which was passed on to the defendants Ter Meer and Ambros. The description in the table of contents of that document is not entirely accurate. It relates the closer cooperation with the Auer Company in the poison gas field, Page 75, which is Page 151, in the German book, in the middle of the page: "For the time being Auer (Auer-Gesellschaft) and I.G. are to be the partners of the working association. The date is October 1938. Reading a little further down: "The sphere of work of the working association will be chemical warfare agents. It will, therefore, be necessary from the very beginning to work in closest connection with the authorities concerned, Army Ordinance."

On the next page, 76, your Honors will note on the top that copies of the file note were forwarded to Ter Meer and Ambros. Your Honors will also note Central Office for Contracts, contract between the Auer, October 1938, and the subject matter of that contract. I am not entirely certain whether this is the contract or a draft of the contract. It is immaterial for the present purpose as the association in this field and I.G. Farben's participation at this date.

NI-5682 is already in evidence as Exhibit 353. It is a confidential memorandum of I.G. Farben 13 January 1939 re Orgacid. The document requires no further elaboration.

As Prosecution Exhibit 630 we offer NI-6499, a confidential letter from the management of the Hoechst, to Vermittlungsstelle W concerning experiments with a substance called tutogen, screening substance. I don't read it because with respect to this document and the next one, 6500, which we offer as Exhibit 631, counsel raised some question as to whether Tutogen was correctly described here as a mustard gas intermediate or, as they indicate, something used in connection with fire extinguishers. We just mention whatever the product ultimately turns out to be from the facts. As of February 1937 and September 1938 they are working on increased production of that particular product.

THE PRESIDENT: As to Exhibits 630 and 631 then the understanding will be that you are offering them only at this time?

MR. ANCHAY: We are offering them in evidence, subject to the further clarification as to the nature of the product,

THE PRESIDENT: Very well.

MR. ANCHAY: As Prosecution Exhibit 632 we offer NL-4049, a letter from I.G. Farben's legal department chemical to the Toe-Bureau in 1937 showing that I.G. attempted to acquire in France a formula for tetrachlortitan, a carrier for poison gas. Page 84, which is at page 162, in the center of the page they describe the properties of tetrachlortitan, a smoke-forming agent, makes gases visible, produces toxic effects, and so forth. Then under possibilities for extension of the process, which is at 163 of the German book, this reference and I.G. memo: "The present political situation makes the problem of producing artificial clouds more important than ever." April 1937.

NL-7430 is already in evidence as Prosecution Exhibit 598. It is a copy of a letter of I.G. re stand-by plants for the production of certain ingredients used in connection with the production of poison gas, signed by the defendants Ter Meer and Ambros. We turn, if your Honors please, to page 85, 28 April 1937, Ter Meer and Ambros writing to the Office for German Raw Materials and Synthetics. I.G. Farben "declare ourselves prepared to put our experience at your disposal for the extension of the stand-by plant at Trostberg and to act as technical advisory office for the building operations."

The next page, 86, which is 166, as an indication of a stand-by plant and the products enumerated. I call attention to glycol and thiodiglycol, and your Honors can note on the chart over to the right, thiodiglycol being directly above mustard gas and glycol, as we indicated before, directly above powder having uses for all purposes. The point of this is in 1937 knowledge of the purpose for which the plant was being used. At page 88, if Your Honors please, which is 169 of the German

book, still about the Frostberg plant. 21 April 1937, in the first paragraph, "Dr. Baikell stated that a plant has been decided on in Frostberg for the 'A-Fall' to produce diglycol, oxol, and acetic acid. In the 'A-Fall' 80,000 tons of carbide should be commandeered for these products." I refer to that in connection with explosives, the product here relating to a raw material for poison gas; and the same knowledge applies.

The document at the bottom of the page of the index 4, NL-5686, is already in evidence; and that is the Prosecution Exhibit 438. It's the letter of 27 June 1938 which we referred to at the beginning of the session, a letter which we say is from Ambros to Krauch, giving his opinion how the office should be organized for the planning of chemical production. We've spoken sufficiently about that document. I call attention to the fact that the date is 27 June 1938.

With that in mind we offer NL-8841 as Prosecution Exhibit 509. I'm sorry, that's already in evidence as Prosecution Exhibit 436. I call your Honors' attention to the date 29 June 1938. I might describe it. First, it comes from the files of the Army Office for Economic Development. It is a secret memo speeding up the poison gas production, and it mentions the available and planned capacities for poison gas production at Ludwigshafen, Huls, and Amendorf.

On page 93, if your Honors please, which is page 174 of the German book, in the middle under "chemical warfare agents," you see mustard gas facilities for ultimate capacity; then a series of figures. Your Honors will note Ludwigshafen, expansion of Amendorf. This is 30 June 1938. We think it is rather significant that it is three days after the Ambros letter to Krauch that I just referred to; and we think it is significant that the directive from Krauch's office, NL-8841, three days later, appears to incorporate the recommendations which were made three days before in the document we referred to.

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On page 92, in the middle of the page, which is 174 of the German book, dated June 1938, there is a reference to the first large-scale experimental station to be erected at Hoechst, Farben's Vienna plant for two hundred tons per month of D mustard gas.

Then further down there is another reference that the experimental plant in Huels, as covered by present planning must be in operation. Further down in the page, 174, they refer again to expansion of facilities at Schkopau. Throughout the document there will be the technical reference to more of these poison gas intermediates.

As Prosecution Exhibit 441 - I am sorry, 599 -- I think I will have to check the record. NI-7430 was 598 already in evidence. NI-8841 is already in evidence as 440. NI-7376 we offer in evidence as 633. That is a memorandum from the Army High Command of 28 March, 1938, reproduction of the Trostberg stand-by plant for the production of poison gas. Your Honors recall a moment ago I read the commitment signed by Ter Meer and Ambros about the Trostberg plant. They were going to undertake its operation. Now, at page 96, if your Honors please, page 176 of the German, the date, 29 March 1938, down to the bottom of the page: "The High Command will take over the establishment and financing of the stand-by plants, planned in the 'Trostberg' project, for production of," and you get it again, "diglycol, thiodiglycol (Oxol), ethylene chlorhydrine, ethylene oxide," and then again you get figures of production capacity and expansion.

Page 97, which is at the bottom of page 177 of the German, second paragraph from the top, after referring to conferences, "Having regard to the conferences which were held with you and the gentlemen of the IG Ludwigshafen you hereby receive the order for the execution of this project."

NI-7379 is already in evidence as Prosecution Exhibit 255. It is a copy of the letter from I.G. to OKR in regard to supplying a propylene oxide. It is dated 15 August 1938, and already indicated the urgency of production in August, 1938. At page 99, if your Honors please, I.G. Farben to the High Command. 15 August 1938 - page 181 of the German book, the first paragraph.

"The experiments for production of mixed oxol (Polyglycol M 1), made in Ludwigshafen, have shown that for this purpose an admixture of propylene oxide," etc., not read their discussion, recital, as of this

date, August 1938, as to what has transpired in Ludwigshafen.

Further down, in the middle of page 181 of the German there are some production figures identifying the place, Amendorf, Huels, Trostberg, and you get figures again. A little further down under 1, "Huels will construct a plant for the production of 360 tons per month of propylene oxide." And then, "In the event of 'A-Fall' will also be supplied from those sources." Integration of all the plants for the purpose of producing this poison gas.

On the next page, 100, which is 182, Schkopau is brought into the picture as a supplier of intermediate agents. NI-7380 is already in evidence as Prosecution Exhibit 597. It is a copy of a letter from I.G. signed by the Defendant Ambros, 18 May 1938, again in connection with diglycol and oxol, page 101. We had this document this morning, your Honors, 183 of the German book, second paragraph. I call your attention again to Dr. Ter Meer as being involved in the discussion and the plant at Huels and the commodities in the next paragraph, and then the third paragraph: "For the planning of the whole of this sector, we now require, as soon as possible," - this is May 1935 - "the construction plans for the esterisation plant, Mustard Gas ('Direct lost!') etc.

At page 102, which is page 184, I ask your Honors to note the paragraph about the storage of ethylene oxide, beginning, "In the letter dealing with the order of 8,000 tons." I referred to it this morning, and the reference to ethylene oxide at Huels, and at the bottom the defendant Ambros signing the letter.

NI-7428 is already in evidence as Exhibit 217. It is a letter from Krauch to I.G. Ludwigshafen re di-lycol, ethylene experimental plant at Sodingen, D-L experiments, etc., 26 August 1938, page 108. If your Honors please, we had this this morning. At the top, 28 August, 1938, Krauch to I.G., and the first paragraph referring to the experiments.

We offer as Prosecution Exhibit 634 NI-7431. It is a letter from the defendant Krauch to the defendant Ambros with regard to ethylene, and it is dated 10 February, 1939, page 111, if your Honors please. You note

on top Dr. Krauch. It is addressed to I.G. Farben, attention of Ambros, 11 February 1939, the first paragraph, page 193, of the German book.

"The state of the experimental work in the field of ethylene chemistry initiated by you," - this is addressed to Ambros by Krauch - "was dealt with during a conference held on 1 February 1939 in conjunction with representatives of the Army Ordnance Office and my co-workers.

"First to all, may I express my particular gratitude to you for having put Dr. Wittwer at the disposal of my construction staff." That is the connection between I.G. representatives being on Krauch's staff, and at the bottom of the page, which is 194 in the German, "In this connection, the work on the oxidation of ethylene with air appears to me to be of special significance."

If your Honors will please look at the chart once more, immediately above "Powder", five lines up, we get "Ethylene"; right below that "Ethylene oxide", and I take it that is what they are referring to, oxidation of ethylene to produce ethylene oxide. And then your Honors will note the lines indicating its use for poison gas.

Page 112, which is 194 of the German book, your Honors will note in the middle after referring to certain plants, "the possibilities of considering a combination of D-mustard gas production with a corresponding capacity for special fuel", 11 February 1939.

Would this be an appropriate point, your Honors, to --

THE PRESIDENT: Will it take you very long to finish the book? Do you think we had better -- Very well, the Tribunal, will be in recess.

MR. AMCHAN: If your Honor please, I think Mr. Sprecher has -- I am sorry.

THE PRESIDENT: Very well, perhaps he has some announcements to make. Mr. Sprecher.

MR. SPRECHER: We think, your Honors, that it would be in the interest of good order, and in the long run in the interest of expedition, if we continued and finished with XXXV on Thursday, and Document Book XXXVI as well, which still has to do with poison gas, and thereafter to

go on with Document Books XXXI, which have to do with new plants involved in this production program in preparation for war, and then Book XXXVII, which is a book principally of affidavits connecting up some of these documents.

Now, we had planned to put the expert witness, Mr. Elias on at that time, but upon reconsidering some of the documents under the next subsection, I (c), which we generally refer to as stock piling in connection with the war preparation, it appears that it would be more reasonable and probably save considerable confusion in the handling of the documents if we presented the materials under (c) as well before Mr. Elias went on.

Now, may I first refer to the document books involved. The document books would be Document Books XXXVIII, XXXIX, XLV and XLXI. May I say, your Honors, that I don't think it will take longer than a half day to put in these four document books, which will cover principally the documents going in in connection with I (c) of the indictment. These document books will be presented by Miss Meyer.

Now, if we should by Friday run through all these books, and I assure you it is a little difficult to estimate exactly how fast one will go, we would plan to call the Witness Hagart who has been on call for some time and postponed, first at the request of the Defense and since that time because we have been anxious to keep going with these documents. Moreover, many of the Hagart affidavits have tied into these documents, so probably we are better off in the long run, but this whole rearrangement has caused the expert witness, Mr. Elias, to have to change his plans, and if we should go on with the Witness Hagart on Friday, we would like to ask your Honors permission that regardless of the status of his examination that on the next day of the trial, we trust next Tuesday, we could start off with Mr. Elias and then come back and finish up Hagart. I am sorry if this is a little complicated.

THE PRESIDENT: The President thinks he understands exactly what you mean. We can see no objection to that procedure. If it suits the

convenience of counsel and is calculated to speed the trial it will be satisfactory. Anything further, Mr. Sprecher?

MR. SPRECHER: Nothing further.

THE PRESIDENT: Then in accordance with the announcement heretofore made, the Tribunal will not be in session tomorrow, and we are now in recess until Thursday morning at nine-thirty.

THE PRESIDENT: The Tribunal will be in recess until nine-thirty o'clock Thursday morning.

(The Tribunal adjourned until 25 September 1947, at 0930 hours.)

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 25 September 1947, 0956, Justice Shake presiding.

THE MARSHAL: The Honorable the Judges of Military Tribunal VI. Military Tribunal No. VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants present.

THE MARSHAL: May it please your Honors, all the defendants are present save the defendant Rammeler, absent due to illness.

THE PRESIDENT: The Tribunal very much regrets the delay in convening this morning. This has been due to the fact that misfortune has befallen the wife of Judge Merrell, who is now confined in a hospital at Munich by reason of a serious injury to her person growing out of an automobile accident.

We have taken cognizance of the situation presented by the enforced absence of Judge Merrell this morning and the information that he may be absent for two or three days.

It is the suggestion of the Tribunal that the hearing conducted in his absence be limited to the introduction of documentary evidence and that no witnesses testify until his return. We should like to have, however, a definite understanding on the part of counsel for the prosecution and the defense that the suggested procedure will meet with your approval. The Chair therefore suggests, for the record, the following stipulation, at the discretion of which we should like to have your accord and agreement to it being made a part of the record, if you are so willing.

The stipulation is as follows:

It is stipulated and agreed, between counsel for the prosecution and for the defense, that during the temporary absence of Judge Merrell, the alternate member of this Tribunal, the hearing will be limited to



the introduction of documentary evidence and that no witnesses will be heard. It is further stipulated that neither the prosecution nor the defense will hereafter raise any objection to such procedure or to the continuance of the trial thus limited to the receiving of documentary evidence because of the temporary absence of Judge Merrell.

The President would like to inquiry of the prosecution if it can agree to this stipulation?

MR. DUBOIS: The Prosecution is in full agreement with the stipulation.

THE PRESIDENT: The chair will ask the spokesman for Counsel for the Defense if the Defense will agree to this stipulation.

DR. BOETTCHER: Dr. Boettcher.

In the name of all the Defense Counsel I state that I am in full agreement with this suggestion.

THE PRESIDENT: Thank you very much, gentlemen.

The Tribunal will add that if on account of this disturbance of our regular procedure the Prosecution finds itself unable to proceed after a time with the introduction of documents, we shall recess in order to afford them an opportunity to organize their presentation.

If there are no other observations on the part of Counsel, the Prosecution may now proceed with the introduction of its documentary proof.

MR. SPRECHER: If the Honorable Members of the Tribunal are agreeable, under the present circumstances the Prosecution would like to make a statement of policy and intention with respect to the calling of witnesses in the immediate future.

THE PRESIDENT: Well, the Tribunal will be glad to receive the suggestions of Counsel as to the future policy in the trial of the case.

MR. SPRECHER: After the Tribunal had indicated that questions concerning the calling of witnesses was one of the appropriate topics for discussion between the Prosecution and Defense Counsel outside of court, the Tribunal will recall that Dr. Dix, on behalf of all the defendants, made a statement to the Tribunal at the morning session on 2 September 1947 and that thereafter the President made some general observations in connection

therewith. This matter may be found at pages 327 to 329 of the English transcript of this trial. The general tenor of the tentative understanding, in our view, was that it was not advisable to lay down hard and fast rules on when witnesses were to be called who had given affidavits to representatives of the Prosecution. The President indicated that the Tribunal had no doubt that in most instances the Prosecution and the Defense would be able to agree and that where disagreements remained outstanding, the Tribunal could be called upon.

Last week I indicated to Defense Counsel that the Prosecution desired to call a number of persons as witnesses who had given affidavits which had been introduced or would be offered in evidence in the near future, and that we intended to call these witnesses very shortly upon the completion of the introduction of affidavits bearing upon Sub-sections 1D and 1E of the Indictment. Shortly thereafter Dr. Boettcher informed me that a committee of five defense counsel had been appointed to consider the question.

Yesterday afternoon first Dr. Boettcher and then Dr. Dix, Dr. Dix being a member of the committee, informed me that the defense position remained generally the same as had been previously indicated to the Tribunal by Dr. Dix on 2 September, and that, therefore, there remains outstanding only the problem of handling individual cases.

It, therefore, seems necessary that the Prosecution should declare its general intentions with respect to the order of trial in the immediate future so far as witnesses are concerned; that immediately further discussions take place between the Prosecution and duly authorized

representatives of the Defense outside of court; and that thereafter specific agreements and disagreements, if any, are laid before the Tribunal so that there can be no possible misunderstanding.

In connection with this general problem the Prosecution has prepared a general memorandum listing affidavits, interrogations, certified charts, etc. by persons who are not defendants, which affidavits etc., have been offered or will be offered by the time the Prosecution has completed Document Book 41. Copies have been laid before Your Honors this morning, and copies were delivered to Dr. Boettcher's office yesterday afternoon. In case of need, there are the copies. The introduction to this memorandum, if the Tribunal will note, is given in both languages, and the table should be understandable to anyone reading either English or German. This memorandum has been submitted to the members of the Tribunal and all Defense Counsel as a matter of convenience and as a ready reference guide for all of us in proceeding with these matters. For example, when an affiant is to appear as a witness, the Tribunal and the Defense will be advised generally of what affidavits or interrogations are involved without further detailed announcement by the Prosecution.

To get this matter under way expeditiously and to avoid any possible misunderstanding, the Prosecution would like to make five points with the permission of the Tribunal:

Point 1. Under Article 7 of Ordinance No. 7 the Prosecution has introduced approximately one hundred fifty affidavits or interrogations which are listed. However only fifty affiants or interrogatees are involved,

since we have introduced different affidavits by the same affiant on various topics at different points in the proof. Our objective has been to make it easier and simpler for both the Tribunal and the Defense to relate our proof to the various charges of the Indictment. We now feel that we should generally clear the record concerning these affidavits, etc., except where there exists very special reasons for deferment.

The Tribunal has no doubt observed the very close interrelation between each of the sub-sections A through E of Count I. With relatively few exceptions all or most of the available affidavits by the affiants listed in the memorandum, at least so far as they relate to Count I, have already been offered and accepted into evidence. Direct examination and cross examination of many of the principal witnesses in this group in the near future should avoid considerable confusion and should delineate considerably the outstanding issues. Further, it should enable the Prosecution better to discharge its responsibility for going forward with the proof without unduly burdening this record with cumulative evidence on uncontested points, and still know when it is fairly entitled to rest its case in chief upon the particular points involved.

Point 2. Although we feel that these conventional rules on cross examination are clear, and further that they are clear at least to most of the Defense Counsel here, the Prosecution desires to mention these rules in open court so that our general position could not be misunderstood under any circumstances in the future, and, of course, Your Honors, if I misstate what we consider to be the conventional rules, we shall indeed want to hear

from the Tribunal.

Where a witness is called, we think it important that the Defense understand clearly both its rights and its obligations. If the right of cross examination is to be exercised, it must be exercised forthwith. If the right is not exercised, then the Defense may not call this witness again concerning the subjects of the direct examination or the subjects of the affidavits of the witness already introduced. This covers equally any later examination during the Prosecution's case in chief or during the defense case. However, it should be equally clear that the Defense has the right to call any such witness as a defense witness during the defense case on subjects which are not directly involved in the direct examination of the witness or in the affidavits of the witness introduced. In fact, if the Defense in cross examination were to go beyond the subjects in direct examination or beyond the subjects of the affidavits introduced, the Defense would be going beyond the permissible limits of cross examination. Such matters are properly reserved for the defense case in chief.

Point 3. The Prosecution does not mean to indicate by the above that under special circumstances the Tribunal, upon proper application, may not approve deferment. No doubt in many cases the opposing parties can agree upon these matters. No doubt where we cannot agree, the Tribunal may direct deferment of cross examination contrary to the conventional practice where the Tribunal feels this necessary in the exercise of its discretion in maintaining the requirements of a fair trial.

Point 4. Where the Defense can demonstrate to the Prosecution outside of court that the record contains

obvious errors, we may be able to set the record straight by either stipulation or by such means as agreeing that cross interrogatories or a supplementary affidavit by the affiant will adequately take care of the matter without oral testimony.

Point 5. In all events the Prosecution desires that in the very near future all outstanding issues in respect to particular witnesses or prospective witnesses named in the memorandum so far as the affidavits or interrogations or charts which are among the documents there listed be made crystal clear upon this record in open court. We think that in addition to clarity, this will be in the interest of avoiding misunderstandings at later stages of the case. The Prosecution is prepared to take a position on the record with respect to all of these affiants. We suggest, therefore, that Defense Counsel make their intentions known to the duly authorized representative of the Defense so that we can expeditiously proceed to iron out some of the problems before the first session next week, for it will be necessary for the Prosecution to give notice to call at least some of the witnesses by that time. Further, we trust that by the end of next week we can lay before the Tribunal both our final agreements and our disagreements, if any.

At later stages in the case, we will similarly attempt to develop an orderly and expeditious procedure on other outstanding witness problems. The Prosecution does recognize that particular Defense Counsel often must make arrangements to be out of Nuernberg in connection with defense preparation when we do have sessions, and as far as possible we shall attempt to give such notice with respect to witnesses so that Defense Counsel can make their proper arrangements.

THE PRESIDENT: Because of the comprehensive character of the suggestions made by the representative of the Prosecution, the Tribunal is not disposed to ask or expect a commitment from Counsel for the Defense at this particular time. However, in the interest of fairness, if any member of Counsel for the Defense wishes to offer any suggestions or comments or observations with respect to this matter at this time, without prejudice to a further opportunity to discuss the subject after you are more fully advised, we shall accord you that opportunity now.

DR. BOETTCHER: Dr. Boettcher.

Mr. President, although Mr. Spracher was kind enough to tell me about his intentions before this morning's session, I think that I should, nevertheless, like to ask you to request that he give us those suggestions in writing and also the translation of those suggestions, and it would accelerate proceedings if we have this paper by this afternoon at the end of the session since at 5 o'clock this afternoon there will be a general discussion amongst Defense Counsel during which we can define our attitude towards these questions.

THE PRESIDENT: Is Counsel for the Prosecution in a position to conform to that request?

MR. SPRACHER: Just a moment, Your Honor.

If the Tribunal please, I was talking from a rather fully prepared draft, but I am afraid I did ab lib on occasion. However, I am informed by the interpreters that they will be glad to have typed copies made of this draft which is almost identical with what I said and certainly the same on the major points.

THE PRESIDENT: Very well. That would appear to suffice, and the matter will be passed until Counsel for the defendants have had an opportunity to confer and to agree upon a policy and present it for the consideration of the Prosecution and the Tribunal.

Just in closing as to this matter, the Tribunal might observe that it recognizes that the obligation of seeing that these defendants have a fair and impartial trial is the direct responsibility of the Tribunal

itself. However, whenever it is possible for the representatives of Counsel for the Prosecution and the defendants to agree upon a trial policy, it would be most helpful to the Tribunal, and we welcome your consideration of this problem in the hope that the procedure that is ultimately adopted may not only be that approved by the Tribunal but which meets with your own approbation, and at a subsequent session we shall be glad to consider this matter further.

If there is nothing further to come before the Tribunal at this time, the Prosecution may proceed with the presentation of its evidence, limited, of course, to documentary proof.

MR. AMERSON: If Your Honors please, we were presenting the proof in Book XXXV, the first book on poison gas. I believe the last exhibit was Exhibit 634, NI-7431. As Prosecution Exhibit 635 we offer NI-7422 which is a letter from I.G. Farben to the defendants, Ambros and Baergin and others, dated 1 August 1939 relating to the production of a substance known as "Perstoff". This is at page 113 of the English book, if Your Honors please, page 197 of the German book. Your Honors will note the date, of course, addressed to Dr. Ambros at Ludwigshafen, Dr. Baergin at Bitterfeld, the subject, "Perstoff". From other documents in the record, "Perstoff" seems to be indicated as being in the same family as phosgene and one of the poison gases involved. Your Honors will note there is a letter from Dr. Ambros discussing the question of "Perstoff" production, and on the next page, 114, the first paragraph:

"In principle the following can be stated quite generally as regards this matter: — "this is August, '39 — "No doubt it is correct and useful to conduct the experimental development of a war gas in a larger chemical works while complying with the usual official orders."

And if Your Honors proceed down in the middle of the paragraph — it is page 198 of the German book — a recital of past occurrences:

"Already in the development of the hexogen-W process here in Hoechst considerable difficulties had been created for us—" etc., an admission of what they were doing in the past. Further down just where

they note page 3 of the original: "then we built a hexogen plant with an output of ten tons per month," etc., and toward the end of that paragraph, still page 198 of the German:

"Similar difficulties are also to be expected in the establishment of factories for war gases; one will, therefore, never be able to establish a larger plant in a densely settled living and production area", planning in August, 1939.

And then the next paragraph is about some technical matters of the division of production between the various I. G. plants.

On the next page, if Your Honors please, which is page 200 of the German book, note the second paragraph:

"During the war, 'Forstoff' — "that is the substance they are discussing — was produced in Hoechst", and then they go into the technical chlorinating, formic acid, etc., and then the beginning of the next paragraph:

"You will find the statistics requested by Herr Dr. Ambros in Enclosure 2; just as with the staff figures we have only estimated them, so that the figures may still change a little during the construction of a new plant", figures requested by Dr. Ambros in discussions for a new plant.

Toward the middle of the paragraph:

"We had originally determined the expenses arising for 'Forstoff' production in 1917 and had taken into consideration the influence of the inflation which had already made itself felt at that time", indicating the particular details to arrive at a price to charge the government for this production.

As Prosecution Exhibit 636 we offer EL-6146. It is a cover agreement of June, 1940, in connection with the Huels plant. The preamble is what we call attention to at this moment as it contains recitals of past orders and past performance with respect to the production of poison gas.

At page 119, if Your Honors please--or rather 120, I am sorry--which is at page 206 of the German book, first paragraph, the recital; "the OKH desiring the construction of a stand-by plant for the production of Diglycol, Oxol I, Oxol II, Acetophenone and Ethyl Alcohol, designated the Montan as executors of this project. The proposed site (of the plant) is on ground owned by I.G. Farben." And, if Your Honors will turn to the next page, you will see detailed reference to specific orders for these intermediates, and on the chart that we were discussing, Exhibit 591, WI-6239, a reference at that chart in connection with the specific products mentioned in this recital indicates just the purpose for which they are being manufactured, and the recital of orders 1938 and preceding.

WI-7759 is already in evidence as Prosecution Exhibit 559. It is an I.G. Farben report in connection with the Buna Works Huels in March of 1938. At page 128, which is 215 of the German, at the bottom of the page, begin the references to earlier production and performance of it--this is March '38. "The production volume has only slightly deviated from plants hitherto existing. Only the Oxol I (mustard gas) quantity proposed so far by Army Ordinance from 9,600 to 7,200 per year. Instead, the production of 2,400 tons per year of DL(Direct Lost--mustard gas) is intended."

And at the next page, if Your Honors please, 215 of the German, under Main Products, and on the margin "only in case of mobilization" you get production figures for these items. "Diglycol I, Oxol I, D.L. (Direct mustard gas)" Proceeding further down, discussing their planning and actual accomplishment. "At the same time, 10,400 tons of Ethylene and 32,500 tons of chlorine (in the case of mobilization) will be introduced as intermediates."

If Your Honors will just glance at the chart for a moment, immediately above "Powder", four lines up, you will note Ethylene; and then again you note the heavy line to the right, going down to DL, direct lost mustard gas. You will also notice further on the same

detail with respect to these items.

Page 130, if Your Honors please, at the top of the page, the first paragraph, an I.G. Farben memo. "It is a matter of course that the establishment of such extensive power plants for the case of mobilization involves a considerable expenditure which will have to be kept low by the utmost utilization possible in time of peace. Such opportunity, however, cannot be expected at once, but only after several years when the market has been established for the ethylene oxide produced in the standby plant, or for another ethylene product, or for chlorine and caustic soda respectively. This market should preferably"-- 216, 217 now--"be located abroad in view of the fact that its demands could not be satisfied in case of mobilization." This is March 1938. Two paragraphs further down;

"In the course of the respective negotiations with the authorities and the Army Ordnance Office, the reasons stated by us"--I.G.--"in favor of an operation of a standby plant were recognized as justified and it was promised that Heuls would be given preferential treatment."

And then down at the last paragraph: "It is intended to operate the D.L. plant"--Direct Lost Mustard Gas--"for a very short time only, namely, for such length of time as is required to obtain experience for the operation of such plants." Admissions from I.G. Farben's own records.

As Prosecution Exhibit 537, we offer VI-4990. It is a cover agreement dated July 1940, re the Gendorf Plant. It is signed by Ambros on behalf of I.G. Farben. And if Your Honors will turn to page 132 which is page 220 of the German book, again the recitals, best performance, as set forth in this cover agreement. The first paragraph;

"By order of and at the expense of the OKW on a site in Gendorf 'Warten', a plant for the manufacture of 600 tons of Glycerine D, 600 tons Oxol, and 3350 tons of Direct Lost per month, in continuous shifts has been established. With regard to the fact that the chemical apparatus part of the plant has been constructed and built by I.G. and

further considering that the chemical methods to be applied in the plant have been developed by, and belong to, I.G., the OKH and I.G. agree upon the following:" and then come the details. Under Item 2, at page 221 of the German: "Further, the OKH is responsible for it that the plant is only operated by I.G. or a 100% subsidiary of I.G."

and the next paragraph: "For the upkeep and the management of the plant, I.G. has made available 'Anorgana G.m.b.H. in Frankfurt', which belongs to I.G. 100% and with whom Montan has on this day signed the lease contract concerning this plant."

At page 134, if Your Honors please, the very end, you will note Ambros executing on behalf of Farben.

On the next page is the lease agreement between Montan and Anorgana, the I.G. subsidiary. Just a part of the first paragraph would be worth discussing orally. In the middle of that is recited again with "regard to the fact that the chemical equipment had been constructed and erected by I.G. Farben, and considering that the chemical methods which are applied in this installation have been developed by and belong to I.G. the maintenance and operation of the plant is transferred by Montan to Anorgana, which is a 100% subsidiary of I.G., in accordance with the following lease-contract." The entire scheme of operation of these workings of the poison gas plants are disclosed by these documents.

We are ordered to continue, if Your Honors please, with the second book on Poison Gas, which is Book 36. As Prosecution Exhibit 638 we offer NI-4996, an agreement of June 1944, between Farben and the OKH re the carrying on of experiments for poison gas intermediates. Page 1, if Your Honors please, the preamble, recites the recital of facts that "already have occurred. 'The firm have perfected at their Leuna factory a process brought about by splitting carbohydrates in an electric arc for the manufacture of ethyls--" I think it should be "acetylene."-- by the hydrogenation of acetylene."

"The introduction of a process for the hydrogenation of acetylene at the privately-owned experimental plant now in process of construction at

Trostberg would result in considerable savings."

Now, if Your Honors will please look at the chart, Exhibit 591, Your Honors will note five lines up, immediately above Powder, the box "Ethylene", and then there is a thin line proceeding to the left for Hydrogenation, a thin line up to Acetylene and Calcium Carbide, and leading up to Nitrogen Synthesis. Now, this reference to the production of Ethylene by hydrogenation of Acetylene through carbohydrates, if you trace it down again now, beginning with Calcium Carbide, that is the carbohydrates, you get Acetylene. They are talking about that. And then there is a hydrogenation process which will produce Ethylene. I don't mean to testify in technical matters, if Your Honors please, but I believe it might be helpful, at least for the purposes of identification, to briefly trace these things through the chart; and when they speak of hydrogenation and it goes way back to the nitrogen synthesis, Your Honors will recall they perfected the hydrogenation process, and right down the line where they produce ethylene through carbide was another way of getting at these intermediate products which Your Honors note they used in the production of poison gas and powder.

Toward the bottom of the page there is a reference to preliminary instructions of 20 December 1938 on the firm. The firm, that is I.G. Farben, was commissioned to work out a process for the hydrogenation of carbide acetylene and to continue at their Schkopau works" and then some more detailed reference. The point we are making now, is to show that the various plants were connected with the experiments to produce poison gas.

Now, the next paragraph: "According to the estimates submitted by the firm, the costs of the project were expected to amount to the following sums: Experiments at Osora and Ludwigshaven in 1937 and 1938," an admission that they were carrying out experiments in those years for these products. And as you go down the line, the same thing. Now, under "c" Your Honors will note "To installing a Lindel experimental plant at Schkopau." Now, if we go back to the chart again, you proceed

directly up from Powder, and you get alcohol. Six lines up, over to the right is Ethylene. Then you see a heavy line "De-ethylenization Linde."

Now, for general purposes this Linde process that they are referring to is, I take it, for the production of ethylene through this de-ethylation Linde process coming from coke gas. The process they are referring to, for present purposes, is enough to indicate it is a process used to produce ethylene. They are experimenting on that and being reimbursed for the costs.

Page 6, if Your Honors please, which is page 7 of the German. You will note the signature of Ambros on behalf of I.G. Farben, over on the right. It is Prosecution Exhibit 639. No offer NI-9198. It is an affidavit of Dr. Hoffmann, former official in I.G.'s Chemical Department--I am sorry, he is a former official in the Chemical Department of the Reich Ministry of Economics. And it is in connection with Farben's production of caustic soda and chlorine.

Page 7, if Your Honors please, which is page 8 of the German book, paragraph No. 2; "as far as I remember," says this affidavit, "the production capacities of the plants available in Germany for the production of caustic soda and chlorine in 1939 before the outbreak of the war exceeded peace time requirements. The purposes for which caustic soda and chlorine were used in war production are: caustic soda, cellulose, and chlorine, solvents, glycol and diglycol."

"As far as I remember, I.G.'s shares in caustic soda and chlorine production before the war exceeded 75% of the total production."

Then he says how he made this estimate, from what figures.

At page 8, which is page 9 of the German book, right below the computation of figures, again comes the conclusion of the affiant:

"At the time in question, the I.G., therefore, produced approximately 78% of the total production capacity of approximately 47,000 tons per month."

As Prosecution Exhibit 640, we offer NI-7425, a letter from the defendant Ambros, 28 September 1939, re the D-Lost plant in Leverkusen. Page 10, if Your Honors please. It is rather short. You will note it is addressed to Dr. Ambros by the defendant Kuchner: "I thank you very kindly for your report on the result of the conference at the Army Ordnance Office in regard to D-mustard gas. I again confirm that Leverkusen"—Kuchner's plant—"will take over the planning, construction, and operation of the actual D-mustard gas plant, including the production of sulphur chloride" and so forth.

NI-4988 is already in evidence as Prosecution Exhibit 355. It is a memorandum of a meeting in January 1940, the defendant Ambros present, about the organization of Luranil Company to construct poison gas plants. At page 12, if Your Honors please, you will note the date, 27 January 1940, a meeting at Ludwigshafen. Present: Dr. Ambros, first paragraph. "Dr. Ambros opens the conference. As a preliminary it is established that the founding of Luranil has a dual purpose. On one side it must be avoided as regards certain projects built by I.G. and financed by a third party to let the I.G., as such, appear to the outside, especially at the building site." And if you proceed further down, in the middle: "Since Luranil will not be a completely independent organization with its own personnel, administration buildings, etc., but is rather to carry out the projects assigned to it mostly with I.G. Personnel, the difficulties of estimating costs are not lessened..." and so on. From that it is quite apparent that Luranil is to be the company to build the poison gas plants and the

expressed intention is to conceal I.G. Farben's participation in the project. And then further on showing that the I.G. personnel will, for all purposes, be operating and running Luranil.

And then a little further down, under "1": "The first projects to Luranil are Dyhernfurth, Griepo, and the acetaldehyde plant of Trostberg."

Page 13, the next page, which is page 16 of the German book, under "4": "Personnel Matters. Luranil will carry out its tasks chiefly with I.G. personnel."

Under "5", "The OKH (High Command of the Army) has to be advised at the first occasion about the cooperation of Luranil and the execution of projects turned over to it. In this connection it will have to be agreed upon with the OKH that preliminary notice must go to I.G. as before, and that each construction contract is to be drawn up between the OKH and I.G., but that the remaining commercial correspondence is to be handled by Luranil."

I think that established the purpose of Luranil with respect to this matter.

As Prosecution Exhibit 641 we offer NI-5689. It is a memorandum re a letter from the Army High Command to Ambros....10 January 1941, setting out the measures to be taken to conceal delivery of poison gas products. At page 15, which is page 17 of the German book, Your Honors will note the file memorandum addressed to the attention of Director Ambros. Second paragraph: "To preserve the secrecy of the whole affair under all circumstances, the necessary final business stages involved in the dispatch of 'oxalsauris potassium' will not be carried out in Section B..." but in some other place. As you go down two paragraphs further: "But, to go out of our way in the matter"—page 17 of the German—"it is suggested that the 'oxalsauris potassium' accounts sent out from Frankfurt to OKH—contrary to the general instruction of OKH—that all accounts should be twice signed, should

should go out without signature."

And the next one, some more detail on the steps to be taken to conceal the nature of the product that is being delivered.

As Prosecution Exhibit 642 we offer NI-6523, an I.G. File note about the raw material supply in the VT installation. Page 17, if Your Honors please, which is page 19 of the German. October 1941, about the supply of raw materials for the VT plant. "VT" is a code name for mustard gas, and Your Honors will get that fact on page 89, and the document follows in this book. An affidavit identifies VT as a code name for mustard gas. They refer to the Gendorf plant. Your Honors can see in line 3, and the middle of the paragraph numbered "1", which is page 19 of the German book: "According to these obligations, Gendorf must produce 12,000 tons of Acetaldehyde, 7,200 tons of Diglykol, 48,000 tons of 'Direct' mustard gas, which represents a total requirement of approximately 40,000 tons of Acetylene..." and some more figures; products mentioned, as Your Honors can note from the chart, are direct intermediates for the production of poison gas.

Page 18, if Your Honors please, which is page 20 in the German book, about four lines down: "Furthermore, it is assumed that some thousands of tons of Acetylene and Ethylene will be available for the experimental start of the 'direct' mustard gas plant." Then further on comes some figures and how they are going about it.

Page 19, if Your Honors please, toward the bottom of the page, about six lines up; it is page 23 of the German book. This is an I.G. memo; "During a period of the most radical form of warfare, however, when chemical weapons are being used, the production of nitrates in Trostberg will be reduced to practically nil if Diglykol, 'direct' mustard gas and 10,000 tons of 'Lubricant' have to be produced at the same time. In that case, an increase of the above-mentioned production ...will.. be necessary."

And the next page, the last line, you will see the reference to

now plants at Linz and Heydebreck. Linz is -- or was formerly -- in Austria.

As Prosecution Exhibit 643, we present NI-6676. It is a memorandum, 23 July 1942; Ambros to Wittmer, about a production schedule at the Gendorf plant for poison gas. Page 21, if Your Honors please, which is page 25 of the German book, second paragraph: "As long as chemical warfare agents are not being used, the Gendorf production plan without chemical warfare agents, which calls for"--and then figures, certain production.

The next paragraph, "As soon as chemical warfare agents are demanded, the Gendorf production plan with chemical warfare agents" becomes effective...and then detail, planning in how to use it.

And then at page 22, at the end. It is signed Ambros, addressed to Wittmer at Gendorf--

THE PRESIDENT: Pardon me, Counsel, although we started late it would appear well to get back to our regular schedule, and the Tribunal will rise for its morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. ANCHAN: We were, if your Honors please, on Exhibit 643, NL-6676. Before leaving that exhibit I might call your Honors' attention to pages 23 of the English book. It is a technical chart from I.G. Farben; and if you take a look at that chart and compare it with Exhibit 591, NL-6239, it becomes quite simplified. If you'll please follow me on the photostat chart, I'll point out the relationship between the photostat chart and the document in evidence. They start with carbide, and then it indicates that if you take acetylene, over to the left, you get acetaldehyde. Your Honors will note that is the process from a direct line down. Then they go further and start with carbide and acetylene. Then they shift over on the document to ethylene. We move over to the right on the hydrogenation process and show how ethylene is gotten. Then from ethylene they get diglycol. I think the balance of it your Honors can follow yourselves and see how the I.G. Farben chart just ties directly in with the raw materials indicated in the government office chart.

As Prosecution Exhibit 644 we offer NL-6640, a letter dated 10 May 1943 from the defendant Ambros to Kuehne, advising that Ambros is carrying out liaison with the Supreme Command of the army with respect to experiments on poison gas. Your Honors will please turn to page 25, which is 29, Ambros writing to Kuehne: "Since research work in the field of chemical warfare agents within I.G. is increasing and intensive work on very many technical problems is pressing, I have decided to appoint Dr. Hagen, Ludwigshafen, as further support of the chemical technical section. His duties are to carry out liaison between me, the plants, and the supreme command of the army, and to contribute toward carrying out the research work as quickly as possible."

Then your Honors will note that there is a coordinating committee with the other people of I.G. Farben in the different plants who are dealing with the same problem. NL-6633 is already in evidence as Prosecution Exhibit 272.

(DR. PRIBILLA (For Lautenschlaeger and Yachne): I ask the Tribunal to note down a Questionmark in the index. The gas treated in the document has nothing to do with poison gas.

THE PRESIDENT: Very well, that has been done.

MR. ANCHAN: If your Honors will please turn to page 29, page 35 of the German book, you will note it is from I.G. Farben, Vermittlungsstelle W to the Reich Air Ministry, April, 1942. At the next page, 30, under Number 3; "Installations in Northern France." They are there discussing in the location near Lille or rather in the mines of Dourges the construction of a plant Mutterstadt. Then further down, "The following are completed: Three storage sheds for two hundreds tons of white salt, each as a basic product." The point we emphasize with respect to this document is that Farben is producing in plants in France, which they had already taken over, intermediates for poison gas, and it goes to the charge contained in the indictment as I previously indicated, that crimes against peace include not only preparation and planning but actual waging of aggressive war, and, with a starting point of the finding of the IMT, that there has been preparation for aggressive war and there has been aggressive war, the fact established by this document is, that they took over property of conquered territory and proceeded to produce intermediates for poison gas with which to further and continue the waging of this aggressive war.

At page 32, if Your Honor please, in the middle of the page, at page 39 of the German's, under the subject, "Time involved in construction and assembly work," it is an I.G. memo on construction of a plant in France. "The work in Lutterstadt and Vaterstadt was started in January 1941. The number of building and assembly workers reached its peak in the period of April to June with 150 to 200 persons." To begin with, the Organization Todt, I think Your Honor will take judicial notice that the Organization Todt was a German agency engaged in construction work and work facilities. Further, "To begin with, the Organization Todt was also engaged in the work, later on, French building firms were also engaged."

At the next page, page 33, page 40 of the German Book, third paragraph: "The necessary measures were taken in concurrence with the security office at Lille to ensure secrecy and to safeguard against sabotage," Further down: "The apparatus and special skilled workers for the production of appr. 1.0 tons per day of G.M.I. are ready for operation at all times."

Your Honors will note that a copy of the memorandum went to Professor Krauch, Plenipotentiary General for Chemistry.

Your Honors will turn back to page 27 of the same document, in the middle of the page 32 of the German: "In spite of this, the opinion is prevalent that up to now the actual purpose of these plants, especially the utilization of the eventual finished product, could be kept secret effectively, and that only with the commencement of production, with the delivery of preliminary products, especially of 'white salt', and with the appearance of the air force as buyer and using special collecting apparatus, etc., a difficult situation in regard to secrecy measures will arise. As far as the salt is concerned, many practical possibilities for camouflage are offered by the circumstance that the cover name 'Harnstoff' urea is to be used." That is not for poison gas. Further, "As well as by the fact that a number of fertilizers can

be produced from 'white salt' which is easy to analyze."

Your Honor will note further down with reference to gases, and I might call your attention at this point that in Book 35, in connection with this document, Book 35, at page 6, in one of the affidavits there is reference what "white salt" is, and the reference indicates that one the I.G. Farben officials, as I recall it, tried to break down the code names for us said that the "white salt" was a combination of Omorga S lt", which, he told us, was a tear gas. It might be worth while to note that in the reference in Book 35, page 6, the break down of the code "white salt".

THE PRESIDENT: Of course, counsel for the Prosecution will realize that these observations are according to notice subject to challenge by the defense.

MR. AMCHAN: And that all my remarks, if Your Honor please, are not to be taken in the nature of testimony, but is counsel's understanding what the things are, and, if necessary is appropriate to point to the challenge already made, and if it does present a fact issue, testimony will result.

THE PRESIDENT: That is entirely correct.

MR. AMCHAN: As Prosecution No. 645 we offer NI-7377. This is a memorandum of a meeting of the Vorstand of Morgana, GmbH, in August 1943. Present were the defendants Dr. Ter Meer, Dr. v. Knieriem, and Dr. Ambros, and the meeting relates to a discussion of the Falkenhagen plant, and the general financial arrangement in connection with the Montan leases.

On page 37, if Your Honors please which is 43 of the German text, Your Honor will note the participants, Ter Meer, c. Knieriem and Dr. Ambros. First paragraph:

"1. Setup of contract concerning the Seewerk Plant. It was agreed to hand over operation of the Seewerk plant, by means of a contract of operation to a company to be founded on a 50-50 basis by Montan and I.G. at the expense of and for the account of Montan." That ties up

the I.G. of the Seewerk plant. Your Honor will note another reference to Falkenhagen, that is the same plant called the Seewerk-Falkenhagen.

Under one affidavit Your Honor will recall one government official listed on the chart which plant it produced poison gas. As to the two, he didn't know whether it was I.G. Ownership, and we established that, he had no knowledge of Falkenhagen. Just another one, I would say, here is the tie-up of Falkenhagen being I.G., and the other evidence to Falkenhagen.

Now the next paragraphs 2 and 43, in the German Book, "Change over of Montan lease contract to a fixed rent," there is a discussion here on the financial arrangement with respect to I.G.-Montan. The document indicates that up to this discussion, the financial arrangement was this I.G., as lessee of the Montan Plant, would pay a percentage rent based on the profit of production whatever the arrangement was, but it was on a percentage rent. The discussion in reference to this document indicates that Montan is interested now in changing the arrangement, and having substituted a fixed rent obligation on behalf of I.G., and this is the discussion in which Dr. von Knieriem appeared in the picture now and explained I.G.'s attitude toward this question by stating "the present time of increased difficulties in every field seem hardly the proper moment in which to begin with such complicated contract work as the change-over desired by Montan. If, in spite of this the Reich insists on the change-over of the contracts to a fixed rent, I.G. will feel bound to consider this question thoroughly." Further on, right below page 2 of the original, "However, denationalization must be practiced in the right place. This is Dr von Knieriem talking. "The Montan plants are quite unsuitable since they are plants which were built exclusively for war," and that is in reference to the point of this document, knowledge that the Montan Plant, by their own admission, was building exclusively for war. "And it is quite impossible," continues Von Knieriem, "to say how they will fit into private industry. I.G. feels, therefore, that the system of fixed rents is not suitable for the Montan plants, but rather, that the present lease contract with profit shares, in view of I.G.'s use of its

experiences, is the appropriate basis of operation." Although this is 1943, it refers back to transactions which originated before 1939, and there is their own statement as to what their understanding was as to what those transactions were.

The next page, if Your Honor please, 39, which is 46 of the German Book, in the middle of the page, Dr. Von Knieriem further explains that even if these claims are considered on a fixed rent, it means an

insupportable problem for I.G. I. G. can not be expected to pay a fixed rent even when failure to utilize all production facilities is due to a partner's default. It is completely out of the question that I.G. should bear the onus of proving that any decrease in the utilization of facilities was not due to a default by I.G., or any of its partners."

MR. AMCHAM: The next series of documents, if your Honors please, relate to a special type of poison gas - sarin and tabun. They were very powerful gases - toxic. The evidence will disclose just what occurred in the experiments and the production of these two particular products. As Prosecution Exhibit 646 we offer NI-4994. There are two documents in that exhibit. First a letter from Montan, October 1944, to Farben relating to the lease of the Auschwitz plant. The second letter, May 1944, from the Army High Command relating to the construction of the Seewerk plant near Falkenhagen for the production of sarin. Page 42, if your Honors please, which is page 51. You will note at the top left hand corner "Montan to IG". In paragraph 1 you will notice reference to correspondence conducted concerning mining enterprises and discussions between Dr. von Knieriem, Dr. Ambros and other representatives with respect to contract and lease for Auschwitz. Dr. von Knieriem and Ambros discussing with the Army official the lease on Auschwitz.

Page 43, if your Honors please, the heading of the subject is a little more exact and then "Cover Agreement and Lease contract for Mining Works at Auschwitz." There is other evidence regarding the Auschwitz plant itself. Page 43, if your Honors please, the letter to IG, addressed to the attention of Ambros, "subject: Building and installation order for the Construction of the Sarin II plant (Seewerk)." Under Inclosure I: "Hereby you receive formal orders to construct a plant for the production of Sarin (sarin II) under your own name but for the account of Army High Command on a site near Falkenhagen..."

Page 45, if your Honors please, top of the page, which is 56 of the German, "In the construction of the installation you are under obligation to utilize all suitable patents, procedures, and 'know how' available to you and the companies of your concern, without special compensation."

As Prosecution Exhibit 647 we offer NI-6782, a letter dated 5 June 1944 from Ambros relating to the construction of Falkenhagen plant for production of Sarin. Page 51 of the English book, if your Honors please, page 65-A of the German. It is from Ambros addressed to one of the government offices.

Sorry for the administrative difficulties, your Honor -- they were handed in -- 8782.

THE PRESIDENT: May the Tribunal inquire is there an omission in the German Book? What is the difficulty?

MR. SPRECHER: Your Honor, the individual documents were not distributed to the Defense Center until yesterday. Because the distribution didn't go through until yesterday many of the defense counsel didn't get their copies as early as the 24 hours rule but I am informed there is no objection.

THE PRESIDENT: Very well. Prosecution may continue.

MR. ALCHAN: I am sorry, your Honor, we had no control over that.

THE PRESIDENT: All right. Please continue.

MR. ALCHAN: On page 1 of the document then, just the first paragraph. It is Ambros writing to the Government office: "We acknowledge receipt of your letter dated 25 May 1944 with which you sent us the construction and equipment order for the construction of the Sarin II Plant (Seewerk) and we inform you that we agree to the contents of the order." And, your Honors, will note on the next page Ambros' signature in the middle.

As Prosecution Exhibit 648 we offer NI-7618, an affidavit of Dr. Gore, IG chemist for Vermittlungstelle II, with respect to Farben's part in the production of sarin and tabun, page 54 which is page 66, the second numbered paragraph: "I cannot give a precise definition of the proceedings which were to be treated as top secret. In general I can say that almost all proceedings which were connected with the development, production and storing of chemical warfare

agents and explosives were treated as top secret, as also were all written proceedings from which a more comprehensive view of the armaments production might be gained."

Proceeding further down to paragraph #4: "Not all the correspondence of the IG which was treated as top secret passed through the Vermittlungsstelle W. The Vermittlungsstelle W was not informed of certain work, for example, experimental and developmental work in the sphere of particularly valuable chemical warfare agents (sarin and tabun). I had fairly accurate information on this work, as in 1943 I was also employed in the Secwerk Falkenhagen.

"Late in the summer of 1943, Dr. Ambros, informed me that he had been commissioned to erect a plant for Sarin production in the Falkenhagen works . . ."

And then there is some discussion with respect to internal administration in regard to that plant.

On the next page, which is 55, 68 of the German, about 4 lines from the top "On taking over the new post, I was informed under the strictest pledge of secrecy that in Dyrhenfurth, of which I already knew, and in Falkenhagen, plants had been, or , were to be set up for now, ostensibly highly effective chemical warfare agents. "

As Prosecution Exhibit 649 we offer NI-9582 an affidavit of Dr. Wagner, formerly of I.G. Farben regarding production of the Falkenhagen plant. He indicates generally, page 2 of the document. I think it is loose. I am sorry, your Honors, 9582 arrived late.

THE PRESIDENT: Could we have in our books just a sheet indicating our books are blank with respect to this exhibit . Perhaps we -- Is that the one that was handed to us at a previous session?

MR. ALCHAN: No, it's a new one. I will pass it by and check up at the recess although I think Mr. Sprecher has it there. It has been served previously in due time on the defense.

On the second page of the document after the affiant discusses

some technical things he says: "This particular chlorofluoride was to be used in filling incendiary grenades with oil, in order to replace powder ignition."

NI-4043 is already in evidence as Exhibit 14. It is a very revealing document. It is correspondence between Himmler and Speer of the Economic Armament with respect to the Falkenhagen plant and this sort of solves the mystery why no one knew anything about the Falkenhagen plant. And, your Honors will recall that one of the earlier affiants, who was a government official, did not know who had the Falkenhagen plant. A lot of it is revealed now in this exchange of correspondence. Page 57 if your Honors please, page 74 of the German book, at the bottom of the page first, - a teletype to the Reich Minister for Armament and War Production. "The Fuehrer has ordered that through the Reichsfuehrer-SS (that's Himmler) further experiments with 'N-product' be carried out - Chief of Army Armament and Commander of the Army Reserve: Ordnance is to submit to Reichsfuehrer -SS all the files, reference material and knowledge gathered up to now about the 'N-Product' and to support purpose of 'Reichsfuehrer-SS' with all means."

This is Hitler telling Speer to turn this plant over to Himmler. Speer's reply to Himmler appears at page 57 at the bottom of the page: "Dear Party member Himmler: At the end of June, the Fuehrer referred to the insufficient tests on the 'N-product' by the Army Ordnance Office and told me about his intention to transfer the responsibility for the production and the tests of the 'N-product' to the Waffen SS.

"At that time, I am convinced the Fuehrer thought that the production should, for the time being, not be taken over by 'Waffen-SS' but that it would be sufficient if the 'Waffen SS' were to take over the testing of 'N-product'.

"Even today, I do not yet agree that the production of 'N-product' should be taken over by 'Waffen-SS', because, after all,

in Germany there is only I.G. Farben that has available the necessary specialists for the constant innovations in chemical processes.

"I do, however, regret that in the course of the Four Year Plan, no competitive firm to the I.G. Farben concern was established, as with the Hermann Goering Works. This would have been easily possible at the time when the numerous new plants of the Four Year Plan were established.

"Nowadays, we depend entirely upon the work of I.G. Farben for chemical progress.

"For that reason, I ordered that the Falkenhagen plant which was at first independently run by the Ordnance Office, be handed over for operation to I.G. Farben, into the hands of the best qualified chemist of I.G. Farben, Dr. Ambros." That's the decision by Speer to Himmler, practically overruling Hitler as to who shall operate that plant.

And on the top of page 57 you see Himmler's reply to Speer accepting the decision. It's a very revealing document, if your Honors please. It ties up I.G. Farben's position in the Four Year Plan, establishes their predominant position in War economy in Germany and indicates their power that in a contest with the SS they were able to come out on top.

25 Sept 47-11-1-LI-AM-Leonard (Lee)

As Prosecution Exhibit 650, we offer NI 7381, a letter from I.G. Farben at Ludwigshafen to I.G. in Leverkusen, dated June, 1944, re: The Falkenhagen Plant production.

Page 60, if Your Honors please, which is page 76 of the German. Your Honors can just note that, from the first page, Leverkusen was participating in experiments long before this particular controversy arose, and Your Honors will also note, with respect to this Exhibit 650, that the correspondence precedes in point of time the correspondence between Himmler and Speer, indicating, we think, that there was preliminary discussion between Speer and I.G. Farben in which I.G. Farben participated.

Page 61, the next page, four lines down, you will note:

"Leverkusen has been working on the production of fluorine and 'C3-stoff' since 1934."

In the affidavit of Dr. Wagner, that we just handed up, he breaks down the code name of "C3-stoff" which I just mentioned.

The next page, 62, 76 of the German, about three lines down, the recital of past events:

"Representatives of OKW have come to Leverkusen for inspections from 1935 until 1942," and they are discussing this particular "W-Stoff".

As Prosecution Exhibit 651, we offer NI 4991. It's an agreement of November, 1944, between I.G. Farben, Ambros acting on behalf of I.G., and OKW with respect to the operation of the Auschwitz plant.

Page 63, which is 79 of the German book, indicates they're enclosing the cover agreement for Auschwitz, intended for Ambros.

The next page is the cover agreement on the Auschwitz plant.

25 Sept 47-H-2-AMH-Leonard (Lee)

Page 64 of the English book, which is 81 of the German, under (1), you get the reference to the particular products. I call attention to ethylene oxide, diglycol, indicating the particular use for which the product will be put to. Under (2), you see a plan for the production of five hundred tons of stabilizing agents, stabilizing gun powder.

Move down further on the page, under (2):

"The I.G. undertakes to operate the plants and all appurtenances after completion."

Under (3):

"I.G. undertakes to start operations and operate the plants at the request of the OKH."

On the next page, 65, under paragraph 3, page 83 of the German:

"In the event of the I.G. investing the I.G. owned Auschwitz works and, in connection therewith, the land on which the plants have been erected, in a subsidiary company in which I.G. has a share of at least 51%, the OKH and I. G. agree that the subsidiary company taking control of the works is to replace I.G. as contracting party in the lease-contract."

Provision in case I.G. wants to step out, a wholly owned subsidiary can take over.

Page 66. Your Honors will note, bottom of the page, Ambros signing.

As Prosecution Exhibit 652, we offer MI 4633. That's a letter from I.G. from Auschwitz re: Phosgene production.

Page 67, which is 87 of the German book, just identify phosgene and production with respect to that and, if Your Honors will turn to the next page, you will note a copy of this letter about phosgene production went to the Plenipotentiary General Chemistry - that's Krauch - and Dr. Ambros.

25 Sept 47-11-3-M-AKH-Leonard (Lea)

NI 6787 is already in evidence as Prosecution Exhibit 296. It's an affidavit of the defendant Dr. Hoerlein relating to early experiments on poison gases and toxic substances. I call attention to page 72, if Your Honors please, page 96 of the German book. Under Item 12. 97 of the German.

"About 1934/1935 a decree was issued according to which more powerful toxic substances which might be important for national defense had to be registered with the Army Ordnance Office.

"As a result of the above decree, cooperation regarding more powerful toxic substances was effected between the High Command of the Army and the I.G.

"I..." This is Hoerlein. "...was kept informed of all toxic substances by the various I.G. Plants. The substances were tested at the Industrial Hygienic Laboratory of the I.G. at Elberfeld, and in the case of higher toxic content, were forwarded to Army Ordnance.

"In the years 1935-1939, the I.G. developed among other things the following substances which could be used as poison gas: Direct Mustard Gas (HL-Last) at I.G. Leverkusen; Nitrogen-mustard Gas at I.G. Ludwigshafen; Mustard Gas mixture at I.G.

"Gelan, also called Tabun, first at I.G. Leverkusen, then at I.G. Elberfeld."

The references in the mimeographed copy seem to indicate that some of these things were originally in the affidavit submitted, which the affiant crossed out. Some technical features as to what the crossing out actually is.

MR. SPEICER: We want to be perfectly sure as to what the original is and to indicate that on the record at this time. We will get the exhibit back from the archives and

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check it and let Your Honors know. -

THE PRESIDENT: Very well.

MR. ALCHAM: At the bottom of the page:

"Gelan, also called Tabun, first at I.G. Leverkusen, then at I.G. Elberfeld.

"Sarin, at I.G. Elberfeld.

"Gelan or Tabun was discovered in January 1937 by Dr. Schrader, I.G. Leverkusen, in the course of his research into pest control. Because of its high toxic content it was taken up by the Army Ordnance office."

You will note a little further down:

"The Army Ordnance Office requested Elberfeld to undertake further experiments with this product when difficulties arise."

And the next paragraph:

"In 1937/1938, I.G. Elberfeld supplied the Army Ordnance Office and through them the Spandau Laboratories for protection against Gas, with small quantities of Gelan or Tabun for experimental purposes."

Down under Item 21:

"In October 1939, Fritz Ter Meer, Otto Ambros and I That is Hoerlein... ".....were summoned to the Army Ordnance Office, where we were told by Colonel Schmidt that we should build a Tabun plant for army requirements. Ter Meer and Ambros carried responsibility for the construction of this plant, in behalf of I.G."

Then he proceeds:

"Sarin, another substance with a high toxic content, which was suitable as poison gas, was developed by Dr. Schrader, I.G. Elberfeld, as a result of his Tabun experiments. After Sarin had been further developed at I.G. Elberfeld and at the Spandau Laboratories, Sarin

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production was started on a small scale at the Dyhernfurth plant, for experimental purposes. The proposed production of Sarin Falkenhagen never materialized."

As Prosecution Exhibit 653, we offer WI 9770, an affidavit of Dr. Schrader of I.G. re: Sarin and Tabun, Schrader having discovered these two things.

At page 76, if Your Honors please, which is 101 of the German book, Paragraph 3:

"Dr. Bayer suggested that I should investigate..." This is Dr. Schrader. "...fluoric acid compounds as at this time the production of fluorine in the inorganic department in Leverkusen began in greater quantity, and intermediate products containing fluorine were found to be poisonous. In the course of these investigations I synthesized in about January 1937, the material which was later called Tabun.

"Like all the others, this material was tested, first by Dr. Juenenthal in the Biological Department, where the material proved to be a very powerful insecticide; then by Dr. Gross in the Industrial Hygiene Laboratory. There the material revealed itself as so poisonous to warm-blooded creatures that its use as an insecticide was no longer in question.

"Before a highly toxic material could be patented, the following steps had to be taken:"

And he goes into detailed administrative matters.

The next page, top of the page, under Item 7. This is Dr. Schrader talking. 102 of the German:

"In about November 1937 I received from Professor Koenig the charge of working on the Tabun series in the former analytical laboratory in Elberfeld. This took place firstly for security reasons, secondly to prevent a greater number of people from being endangered by the poisonous

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materials.

"Dr. Gross demonstrated Tabun to officials of the Army Ordnance by means of experiments on animals at the beginning of May. Immediately afterwards I received by phone the order to go to the Army Ordnance Office in Berlin for about a week and demonstrate the production of Tabun."

Now, that probably means May, 1938. I take that in relation to the preceding paragraph.

"The Army Ordnance Office appointed 5 to 8 chemists to work out a technically practicable method for the production of Tabun in bulk."

And down in the middle, under paragraph 9:

"In December, 1938, this work led me to Sarin. This combination was described by Dr. Gross as extremely toxic. This report went to Professor Hoerlein and from him to the Army Ordnance."

Under 10:

"In my opinion, Sarin was the most effective compound of this series, for of 300-400 compounds which I produced after discovering Sarin, none was equivalent." The experimental production of Tabun was already carried out in Spandau before the war.

As Prosecution Exhibit 054....

THE PRESIDENT: Counsel will pardon an interruption. It is time for our lunch recess and the Tribunal will now rise.

(A recess was taken.)

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, September 25, 1947).

THE MARSHAL: Persons in the courtroom will be seated.
The Tribunal is again in session.

MR. SPEECHER: With the permission of the members of the Tribunal, I would like to clear up two matters. The first arises out of Document N°-6787, which is Exhibit 296, at Page 72 of the English, at Page 97 of the German.

THE PRESIDENT: What book is it?

MR. SPEECHER: I am sorry; it is Book XXXVI. It is the book we were in this morning, English Page 72, German Page 97.

Dr. Nelte, Defense Counsel for the Defendant Hoerlein, has been kind enough to point out the passages which were not correctly reproduced in the German copy, and therefore a proper German errata sheet has been substituted in the German Document Book, which is found at Page 89 of the German. Because the handwriting of the defendant was, I believe, in the German language and in German script, there was a little difficulty in the reproduction, and I think I can now read to you the proper translation, beginning with Paragraph 15, and Dr. Nelte has agreed that if this is done he will withdraw the objection which he previously made concerning this document. In Paragraph 15 of the English copy, would your Honors please strike out entirely the words in the last line just above (page 7 of original), which states "Mustard Gas mixture at I.G." That, as is indicated by the next parentheses, was crossed out before the Defendant Hoerlein had signed the affidavit, and an initial by him was placed at the side.

Now, may I trouble you to read all of Paragraph 15,
1209

and I will read it as it should be, if your Honors will just correct your pages accordingly, Paragraph 16.

"Gelen or Tabun was discovered in January 1937 by Dr. Schrader, I.3. Leverkusen, in the course of his research into pest control. Because of its high toxic content it was taken up by the Army Ordnance Office. The Army Ordnance saw in this product great possibilities for the production of poison gas. The Army Ordnance Office requested Elserfeld, where Dr. Schrader had moved in November 1937, to undertake further experiments with this product when practical difficulties arose." Thereafter that paragraph is all right.

May we go to Paragraph 18 where the last correction should take place, the second sentence. "For example, oral reports on nitrogen mustard gas were sent to the Army Ordnance Office, Dr. Von Sicherer, with references to the previous publication of the Journal of the American Chemical Society."

Is that satisfactory, Dr. Helte?

DR. HELTE: Yes.

MR. SPEICHER: Then we would like to reoffer that exhibit at this time.

THE PRESIDENT: The exhibit as corrected will be received in evidence.

MR. SPEICHER: Now, there is one further matter, your Honors, which we think we might take up at this time, in connection with Prosecution Exhibit 438, which is WI-5387. That was the carbon copy of a memorandum from I.3. Farben, Ludwigshafen, to the Intermediate Products Group, addressed to Dr. Krauch.

THE PRESIDENT: For the record, would you please refer to the book and page?

MR. SPRECHER: Your Honor, it is in Book XXXV. I think you will recognize the point without having the actual document.

THE PRESIDENT: Very well. Then it is Exhibit 438 in Book XXXV?

MR. SPRECHER: Yes.

THE PRESIDENT: Very well. In this book it is Page 104 we think.

MR. SPRECHER: Yes. The Defense Counsel raised a special point concerning the nature and the origin of this document, and therefore we have a certificate which we will hand over to the secretary concerning this document. I would like to read it since it is very short, and that will, in our opinion, bring that matter to a rest. This is a certificate by Esther Glasman, one of the research analysts, on the staff of the O.C.C.W.C., dated the 23rd of September, 1947.

"I, Esther Glasman, E.T.O. 2353, research analyst, hereby certify that Document No. MI-5687, original carbon copy of memorandum from I.G. Farben, Ludwigshafen, Intermediate Products Group, addressed to Dr. Krauch, dated 27 June 1938, was found by me in a file entitled 'Rechtsabteilung Lu I, Akte: Reichsanlagen. Allgemein,' which may be translated, in a file entitled, 'Legal Department, Ludwigshafen, I File: Reich Plants. General,' which file was in the custody of Lieutenant Colonel Tilley at Fiat, British Section, British Compound at Hoechst."

That refers to the Fiat offices near Farben's Hoechst plant.

THE PRESIDENT: Do you propose to file this certificate with and make it a part of the exhibit in the record?

MR. SPRECHER: Yes, your Honor.

THE PRESIDENT: That may be done.

MR. NICHOLS: I believe, your Honor, we had just offered as Exhibit 654 MI-7671, interrogation of Dr. Schrader, re Sarin and Tabun. There is nothing additional in that interrogation which isn't set forth in an affidavit, in the previous exhibit, and there really is no point in orally presenting anything in connection with that.

As Prosecution Exhibit 655, we offer MI-9772. It is an affidavit of Dr. Palm, formerly of I.G., re poison gas production, Sarin and Tabun. It is additional evidence on that point. I will only call attention to Page 89 of the document book, which is 120 of the German book. On that page your Honors will note the affiant breaks down certain code names and gives their meaning. Your Honors will note "Glyozyn, Thiodiglycol." I think in one of the documents we had that, Glyozyn, and counsel mistakenly thought that was glycerine. The code breakdown here is Thiodiglycol. Toward the end of the paragraph your Honors will note "Omegasalz, chlorine acetophenone." You will note next to the bottom "V.T. installation." We had a document referrant to that. That is an installation for the manufacture of mustard gas, and we have further breakdowns of the code.

As Prosecution's Exhibit 656 we offer MI-6927, an affidavit of Dr. Grown, former I.G. Farben technician, re experiments in poison gas and toxic substances. I think we have sufficiently covered Tabun and Sarin, these are just additional factual representations from another participant in this matter.

As Prosecution Exhibit 657 we offer MI-7850, a Vowi, as your Honors will recall, is one of the administrative offices in Farben's Berlin N.W.-7 offices. It is a Vowi report of 1940 for the technology of explosive and poison gases. Page 95, which is 127 of the German book, your Honors will see some corroborating technical information with respect to the matters we presented under explosives and poison gas.

"I. To produce explosives the following are required, nitrating acid and basic explosive materials. When they say nitrating acid they refer

to "concentrated nitric acid (so-called Hoko acid, and super concentrated sulphuric acid (Oleum)."

If your Honors will just glance at the chart for a moment, in the center line, immediately preceding, below line, the bottom box, you will see concentrated nitric acid; a little further over, sulphuric acid Oleum. Farben's own technical report indicates the importance of these two acids.

We proceed a little further down and we recognize some of the raw materials that already have been mentioned. Under 2, basic explosive materials are "(a) for powder, glycerin or glycol for nitroglycerine, cellulose," and then (b) you will see toluol, methanol, and then further down ammonium nitrate.

As we turn the page to 96, 128 of the German book, the second paragraph is interesting.

"All armies prefer trinitrotoluene as high explosive because it has a high safety factor (no reaction to small-arms fire, little sensitivity to moisture, chemically neutral toward metals), combined with high explosive power. TNT, trinitrotoluene, can be diluted with up to 40 percent ammonium nitrate without impairing its explosive effect too much."

If your Honors will please glance at the chart for a moment, under "Explosives" at the bottom, the left-hand, the third little box from the right, "ammonium nitrate." The technical information in this document is that 40 percent of ammonium nitrate diluted to trinitrotoluene makes the explosive effective.

Now, your Honors will note a line up from ammonium nitrate leading up to ammonia, and your Honors will recall in the description of the Haber-Bosch process, this was the process which I.G. developed to manufacture synthetic ammonia, and that was the means by which I.G. Farben in Germany became independent of Chile's saltpeter, and your Honors, can see now the importance of the ammonium nitrate which comes after synthetic ammonia, and the reference to ammonium nitrate. In this

document, 7850, Your Honors will also note some technical reference to picric acid, and as we go down to the paragraph immediately preceding "page 3 of original" 129 of the German book; hexogen. We have met that in some documents, and here is I.G. Farben's description of "hexogen". "Highest explosive effect, stable, chemically neutral, very difficult to manufacture (highly explosive by-products result during the reaction), it can be extensively diluted with ammonium nitrate.

"TNT, picric acid and nitropenta," your Honors know nitropenta on the chart, the end box to the right of the explosives and hexogen right next to it.

"TNT, picric acid and nitropenta, as well as powder, are certainly being manufactured in America." This is 1940. "Hexogen is probably still in the experimental stage." Talking about America.

Page 97, one-third from the bottom of the page, your Honors will note a reference under "Chemical Warfare Agents" to phosgene or Perstoff, and we will have documents referring to Perstoff. This indicates in a general way it is in connection with the phosgene family.

Page 98, if your Honors please, the two paragraphs on that page refer to the status of facilities in the United States to manufacture poison gas, and Vowi, in 1940, March of 1940, is transmitting that information to I.G. Farben and presumably to the military authorities.

NI-10008 is already in evidence as Exhibit 512. It is a chart entitled "Production of 18 Strategic Materials of I.G.," showing the figures on poison gas production are not available for the years 1942 to '44. We had that chart before, and the significant points were pointed out.

NI-10019 is already in evidence as Exhibit 613, and it is an affidavit by Struss explaining poison gas figures for the indicated plants and why they were not available.

NI-10009 we offer as Prosecution Exhibit 658. It is another chart of Dr. Struss about I. G. subsidiary's share in the total German

production of strategic materials from '37 to '43. The chart indicates that I. G. Farben's percentage of total production of poison gas was 95 percent, and there is an affidavit of Struss attached to it, and no additional reference by oral presentation is necessary.

NI-10010 is already in evidence as exhibit 615. It is another chart of Dr. Struss referring to the Wehrmacht's dependence on I.G. production and again he estimates the figure of I. G. Farben's poison gas production at 95 percent.

As Prosecution Exhibit 659 we offer NI-10595. It is an affidavit of Dr. Euman of the chemical industry re I. G. Farben's poison gas production. Page 112, which is 145 of the German book. Just calling attention to the prefatory note which follows in the affidavit is based on facts coming to the affiant's attention during the period of his activity in the Army Ordnance Office at the Headquarters of the High Command of the Army from 1935 to 1945. Now, the balance of the affidavit deals with detailed information of particular products and plants and organizations, most of which we already have covered, and it would serve no useful purpose to discuss it orally. It in general summarizes many of the things already in evidence.

As Prosecution Exhibit 660 we offer NI-9771, an affidavit of Dr. Weir giving production figures of Farben on acetophenone, which your Honors will recall in tear gas, covering the period 1935 to '45. Page 131, which is 182 of the German book, your Honors will please note on the tabulation, acetophenone being the first column, the third column Omega salt was not tear gas, and this Omega salt, your Honors will note the rise from 1935 with 205,000 odd tons and in 1938, as we indicated has some special significance and 1939, 537,000 odd tons.

The next four affidavits, if Your Honors please, all relate to the same subject matter. They are affidavits of various Farben officials indicating that they destroyed their records in connection with these things, explosives, poison gas, etc., and these affidavits are presented at this point to indicate that despite the studied effort to suppress evidence and destroy the records, through the capture of documents from the German government offices we were able to reconstruct by and large what actually transpired, and then the affidavits that follow briefly point out which of the defendants ordered the destruction of records and in a general way just the nature of the records.

As Prosecution Exhibit 661 we offer NI-9126. It is an affidavit of Karl von Heider, who was a Farben official, with respect to the subject matter I indicated. At page 133, which is 185, at the bottom of the page under item 3 --that is 186 of the German:

"Prior to the Allied occupation of Germany, I received a warning from the Abwehr office --" that is counter-intelligence --"by phone to have all confidential files burned in time in order to avoid seizure by the enemy. According to the directives, I informed Mr. von Schnitzler and instructed the heads of departments to burn all secret command matters, secret Reich matters, secret matters and any other files that might be useful to the enemy. Among others, all records were to be destroyed which showed dealings with the Wehrmacht and other war agencies of the Third Reich with respect to armament."

And then: "Selection of such files was made by the head of the departments or their deputies; in doubtful cases my decision was asked for."

On the next page the affiant itemizes the important files that were destroyed in his office, and it is a pretty inclusive list.

At 136, if Your Honors please, under "Chemicals Cost Accounting Department", 191 of the German book -- I think it is 190 -- under 2, Your Honors will see the listing of the matters affecting the named plants of which the records were destroyed, Wolfen, Schkopau, Doeberitz, Dyhernfurth, Gandorf, and the nature of the business carried on at those plants.

On 138, if Your Honors please, at the bottom of the page, which is 194 of the German, among the records destroyed was a list prepared by the secretary to Dr. von Schnitzler. This significant part which Mr. Sprecher calls to my attention that I omitted to orally direct Your Honors' attention to, is 136, 191 in the German, item 3 at the bottom of the page immediately under the listing among the records destroyed, "Correspondence regarding the plants at Auschwitz and the plants at Chemische Werke Huels."

At 139, if Your Honors please, toward the bottom of the page under "E", 196, files of the office of Mr. Haefliger, the defendant, Haefliger, were destroyed, itemizing the files, for additional detail, which Your Honors will readily see when you read the affidavit.

As Prosecution Exhibit 662 we offer NI-8324. It is an affidavit of Dr. Struss on the destruction of files. At page 147, which is at 207 of the German book, the second paragraph:

"In September, 1944, Dr. ter Mer, Dr. Loehr and I discussed in Frankfurt the question of destroying files in the event that the American troops would occupy the town.

Dr. ter Meer was of the opinion that as few files as possible should be burned", and then he lists the files that were destroyed.

As Prosecution Exhibit 663 we offer NI-8976, an affidavit of Ernst Engelbartz on the destruction of the files at the Griesheim plant upon the order of the Vorstand, communicated by the defendant Lautenschlaeger. Page 150, if Your Honors please, 210 of the German book, the third paragraph -- the affiant incidentally indicates that he was the director and manager of the I.G. plant at Griesheim -- the third paragraph:

As far as I know, all files were marked secret which dealt directly with war contracts of I.G. and also a number of those containing directives and decrees of government authorities.

"There were no files at the I.G. plant, Griesheim, marked "top secret".

"Approximately a fortnight before the Americans marched into Frankfurt (March 1945) I was ordered by the Vorstand to destroy all files marked "secret". I received this order from Professor Lautenschlaeger, member of the Vorstand in Hoechst, who was in charge of the Griesheim works. The files were burned in the boilerhouse of the factory in Griesheim."

As Prosecution Exhibit 664 we offer NI-6329, an affidavit of Friedrich Kugel, on the destruction of documents at the Hoechst plant, page 152, if Your Honors please, which is 212 of the German. The second paragraph:

"Some eight days before the American troops entered Hoechst, about 24 March 1945, a large number of documents and letters were burned at the I.G. plant at Hoechst. Only these documents which had been marked "Secret"

were concerned, and according to orders received, all secret documents had to be burned completely. In the I.G., all these documents which dealt with Wehrmacht or Party matters, as well as the correspondence with the authorities insofar as it had any connection with re-armament and war, were marked "Secret". These secret documents had always been kept separately and for this reason they could be burnt within the shortest possible time."

With that, if Your Honors please, we conclude our presentation of I.G. Farben's participation in the poison gas production. We are prepared to proceed, if Your Honors please, with Document Book XXXI which deals with plants, the presentation of the evidence in connection with the expansion of plant facilities.

I might add that in connection with the presentation in this book XXXI certain charts, which already have been introduced in Book II, will be referred to, and I think we did indicate and request Your Honors to have Book II with you. I would have to refer to the charts as the first document.

THE PRESIDENT: Well, we will just suspend for a moment until the books are brought.

MR. AMCHAN: If Your Honors please, the Secretary informs me that these charts are in Book XXXI before you, and if that is the case, I think we could proceed.

THE PRESIDENT: Very well. The Tribunal is ready to proceed.

MR. AMCHAN: The first chart is NI*10029. It is already in evidence as Exhibit 47. It is a graft showing I.G.-owned and operated plants, and it is made by Struss. Now this chart, if Your Honors please, will give you a visual presentation of some of the matters that appeared in documents

and affidavits. It shows the I.G. owned and operated plants, and I will briefly refer to some of these things so that we can get the visual picture of the I.G. Farben setup. You notice over at the righthand lower bottom the legend, a star indicating new plants constructed since 1933, and with respect to those plants individually involved, a date is indicated; and then Your Honors will note on the legend the first year of construction and investment in millions of Reichsmark, and when we get to the individual plants, Your Honors will see some figures which I will explain as we move along showing the investment in those plants. Those without stars are the old plants prior to 1933 where important enlargements and expansions have been made.

The legend under [Classes of Production] lists the various products or main products manufactured and produced in each of these plants, and they are indicated with respect to each plant. We call attention first to the top of the chart, left-hand side. The defendant Dr. Christian Schneider at the head of Sparte I, and the plants under his general jurisdiction. In the center, at the top, Dr. ter Meer, the defendant ter Meer, and in general the plants under his jurisdiction. At the top, over at the right, the defendant Gajewski; and in general the plants under his jurisdiction. Over at the left, Louna. The defendant Euetefisch in charge. Now, some of the figures in there: Nitrogen, 70; that indicates an investment of seventy million marks for nitrogen production. This is plant facilities ... Gasoline. That is where the heavy synthetic gasoline expansion took place. Two hundred ninety nine million marks. Lubricating Oil: Twelve million. Methanol: thirtynine million. And so on, down the line.

Your Honors will note the principal plants producing related products on that: Auschwitz, built in '41 for that purpose; Moosbierbaum.... You notice the products there. Gasoline: forty-two million; sulphuric acid, thirteen million. Moving further down to Linz: Nitrogen. You notice immediately below Niedersachswerfen, seven Wifo plants. We will discuss Wifo in connection with documents. My general statement at this point might be helpful. It is the government agency that financed certain types of plants. Notice, at the bottom, Coal Mines. And in 1938, Hermann Schmitz in charge, and you will also notice the investment: Forty million. My attention is called to the fact that the reference Hermann Schmitz is the name of a mine- rather than he was in charge.

The second column, you will notice Dr. Wurster at

Ludwigshafen, the defendant Wurster. You notice the expansion at Oppau, over at the left. Nickel: six million tons; Nitrogen: sixty-seven million; gasoline: sixty one million; and pilot plants.

We go down the line. You will see these plants that have been identified previously in documents. Ludwigshafen... You will note the chiefs! Dr. Wurster, the defendant; you will note the Deputy Chief, Dr. Ambros. You note the capital investments: Buna, 94 million; In Organo, 79 million; plastics, 73 million. You will note Dr. Ambros in charge of the series of plants listed below, mainly the rubber plants. Schkopau Buna I, 1936. You get the investment there at 401 million. Huels, 1938; the investment there, 260 million. Buna III, at Ludwigshafen, synthetic rubber. Auschwitz Buna IV, Chief, the defendant, Guerrfeld. Gendorf investment not known. That was a Montan plant, as appears in other documents. Dyhernfurth also a Montan plant. And you will note, with respect to Dyhernfurth the Chief, Dr. Palm, whose affidavit we read a moment ago.

Falkenhagen appears on this chart, a Montan plant. If you go down the list, if Your Honor please, you see the investments; plants were referred to before identified, and so forth.

Coming up to immediately below Main Valley, Lautenschlaeger in charge of Hoechst, you will see the Deputy Chief at Hoechst, the defendant Jaehne; the investments set out. Griesheim, the old works; Griesheim, the antogen, 24 small oxygen plants. Some of the other plants we already met.

Getting back to Leverkusen, up on top; the defendant Kuchne in charge. Substantial investments there. Buna:

20 million; inorganics; 47 million; organic intermediates;
Verdingen we met.

Proceeding over further to Bitterfeld, the defendant
Biergin in charge. Magnesium and aluminum: 123 million at
Bitterfeld. Wolfen, under the general supervision of
Biergin. As you glance at the legend, classes of Production,
you see the variety of things it covers, and we already met
Wolfen in the documents.

Aken played a significant role in here in 1934; a
new plant, magnesium and aluminum: 46 million. Stassfurt;
1935, magnesium: 50 million. Teutschenthal, 1937,
magnesium: 4 million.

Further down, you see some additional plants. We
might call attention to the fact that at the plant that is
called Döberitz; the chief is Dr. Hans Schneider -- which
is not the defendant Schneider; he is Christian Schneider.

JUDGE MORRIS: May I make an inquiry of counsel?
You probably mentioned it, but I am a little confused
about these various dates that you have been mentioning in
connection with these plants. This whole chart does not repres-
ent a certain condition in Farben's organization at a
specific date, does it?

MR. AMCHAN: My understanding is that this chart
represents the condition as of 1944.

JUDGE MORRIS: As of 1944?

MR. AMCHAN: That is correct.

JUDGE MORRIS: Then what do these dates -- for instance
like Buna III, 1941, or Buna IV, 1941 -- mean?

MR. AMCHAN: That indicates the date when the plant
was constructed, and the legend indicates this and the
supporting affidavit of Dr. Struss. It is a picture.
This chart makes the situation as of 1944, tracing it back,
1223

showing each year as the plants expanded and the facilities increased; and the dates in connection with the particular plant is the first date of construction. He indicates that in the legend and in the affidavit.

JUDGE MORRIS: Thank you, I think that answers my question, yes.

MR. AMCHAN: The legend indicates it, and it is the first year of construction of the particular facility. That is the significance of the dates alongside of the plant.

JUDGE MORRIS: And the facility was in operation in 1944?

MR. AMCHAN: In 1944; that is my understanding.

This, Your Honors, is a visual representation of the things. The details appear later on in a affidavit and some more detailed figures. The idea of this chart which comes from Dr. Struss, who was in a position to know, represents visually -- so we can see it at a glance -- the general picture. Now, with respect to Sparte III, up on the right, we call attention to the defendant Majewski, being in general charge; and then the individual plants with references to the nature of the production.

THE PRESIDENT: Following the inquiry of Judge Morris, am I right in assuming that where the square relating to a plant carries no date that indicates that it was a plant that pre-dated 1933?

MR. ALCHAM: That is correct. That is correct, if Your Honors please. It indicates that it was a plant -- Any plant that does not have a star is a plant that was in existence in 1933 as to which there were extensions. But the initial plant was in existence.

The Prosecution Exhibit 665 we offer NI-9923. It is an affidavit of Dr. Struss explaining the chart that we were just discussing.

DR. DIX: (Counsel for defendant Schneider): With reference to the chart which was just submitted, we are all negotiating with the Prosecution regarding the fact that we will not be able to recognize the fact in the way it was drawn. I do not mean to say that it is entirely incorrect. But it is clear for one thing, this chart tries to show a certain state for the year of 1945, but, at the same time, goes back to the situation as it prevailed before the war. During the war the work combines and the Spartes -- which had been organized about ten years before that--did no longer exist in their original form and obviously the chart does not give a clear picture about the connections of the individual plants with one another, and also the relationship which the individual defendants had towards these plants is not quite correctly given.

There are a few mistakes regarding the investments figure, regarding the production, and so on. I am only mentioning this because I would like to ask the Tribunal that they should only consider this chart as a guide but in no way as a basis for the situation as it really existed.

We are still negotiating with the Prosecution, but I personally think that we shall shortly clear up this matter only when we interrogate the defendants. A number of those things perhaps may be cleared up before that time.

THE PRESIDENT: In so far as counsel for the Defense and the Prosecution may be able to reconcile any of the alleged errors or inaccuracies in this chart, the Tribunal will be very happy to have you suggest to us from time to time what corrections have been agreed upon. If it develops that you cannot amicably reconcile those differences, we shall understand, of course, that the Defense in due time will be afforded a proper opportunity to give the Tribunal the benefit of its evidence as it relates to this subject.

The Prosecution may proceed.

MR. AMCHAN: NI-9923, which is Exhibit 665; Struss's affidavit explaining this chart. I refer to page 3, which is page 2 of the German book, under Item 3:

"On the diagram, generally speaking, the various factories are connected with lines to one of the major factories: Leuna, Oppau, Ludwigshafen, Hoechst, Leverkusen, Rittelfeld, and Wolfen-Pils, check with chart, in order to show their dependence. The absence of any lines is intended to indicate that these factories were in the nature of things more loosely connected with the Sparten than the other factories."

And there are some additions of detailed explanation to that affidavit which go to explain what was included in the chart and what was excluded.

NI-10030 is already in evidence as Exhibit 48. The reference in the index is an error. It is in evidence as Exhibit 48, and it is a graph about the plants of Dynamit A.G. and its subsidiaries. On the left-hand side of the map, and in the center, the thing is self-explanatory. The main thing I would like to call attention to in connection with this is the two columns to the right of the map. Now, with respect to the one on the extreme right "Wasag," Dr. Sprecher already had offered in evidence the fact that I.G. owned more than fifty percent of Wasag. So this dotted line is not entirely correct,

and Wasag is a direct subsidiary of I.G. But, at any rate, I would ask Your Honors to note on your chart to compare this map with respect to Wasag, to NI-7772; NI-7772 will be offered a little later and it will indicate that with respect to Wasag and its contracts with the Reich, DAG-guaranteed performance.

Going below, to the center, on the extreme right, Deutsche Sprengchemie G.m.b.H. I will also ask Your Honors to compare this with NI-7772, coming up, which will again indicate guaranteed performance on the part of Dynamit A.G. as to the contracts which Deutsche Sprengchemie had with the Reich.

On the column to the left of Wasag is the German which, in parenthesis, is "Verwertchemie", and in that connection I ask Your Honors to note on the chart to compare this with NI-7766, which is another document coming up. The nature of that document will show again a blanket guarantee by Dynamit A.G. of the contracts which the Verwertchemie and all these plants had with the Reich.

Now, the purpose of this map indicating the plants of DAG and the two or three corporations that I mentioned, over at the right, is to indicate that in connection with the explosives program, when orders are given to the plants listed, belonging to these firms, they are plants producing explosives which were subsidiaries of DAG, Wasag, as I indicated, being a direct subsidiary of I.G. In view of I.G.'s relations to DAG, our point is that the production of explosives by the plants of these subsidiaries mentioned are, in our opinion, to be considered as part of the production of I.G.

As Prosecution Exhibit 666 we offer an affidavit of Dr. Struss explaining the preceding chart, and we ask Your Honors to turn to page 6, which is page 5 of the German book. Under "5".

"The major plants, that is, plants whose staff amounted to 7,000 or more persons, are shown on the diagram in bold lettering. Where the diagram makes no mention of the products made at the various

plants these products were either not known or too numerous to be mentioned on the diagram." And then he refers to personnel of the subsidiary corporations.

At page 5, if Your Honors please, under Paragraph 1, you will note the reference NI-1033. That is an error. It should be 10030, NI-1033 or rather 10033 is already in evidence as Prosecution Exhibit 44. That, if Your Honors please, is the map on the wall, over to the left. There is a photostat of that. That map over on the left indicates the plants of I.G. Farben and Participations, Status 1932. The circles indicate I.G. plants; the triangles indicate plants of I.G. participation 50% or more. Again this a visual presentation of the more detailed facts appearing in the documents. Now, that is the status of I.G. as of '32. The map to the right, which is NI-10034, is already in evidence as Prosecution Exhibit 45, and Your Honors have a photostat of that. That is the plants of I.G. Farben, participations and operated plants as of 1943. The legend: circles again indicate I.G. plants, and visually Your Honors can see the tremendous expansion on a comparative basis with 1932.

Your Honors could also see, over to the right, how it extends over to Poland, parts of Czechoslovakia, and over at the left it takes in France, and the heavy concentration in other areas, including Austria.

The triangles which are represented up there in green, are the plants of I.G. Farben's participations of 50% or more. Again visually Your Honors can see the tremendous increase and the additional territory that it encompasses; particularly, I call Your Honors' attention to Austria, down at the lower right-hand side, and Czechoslovakia, and you may compare that with what the situation was in 1932.

The squares represent Reich owned, and I.G., D.A.G. etc. operated plants. These are plants not owned by I.G. Farben and its subsidiaries. These are the squares. None of these appear on the chart on the left.

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There are no squares then in 1932. But over at the right you will see a substantial number of those squares, indicating, of course, the facilities expansion of plants, which, although not owned by I.G. Farben, were operated by it or its subsidiaries.

NI-9445 is already in evidence as Prosecution Exhibit 146. It is Paus's affidavit explaining those two charges. At page 10, if Your Honors please, page 3 of the German book, the last paragraph under No.2: "In 1932 no plant was operated by I.G. its participations or sub-participations which were not owned by the I.G. concern."

Immediately following, both days list the plants in three different groups according to size. The smallest sign has been used for small plants, that is, plants with a staff of up to six hundred. The legend indicates the size. The medium-sized sign has been used for medium-sized plants, that is, for plants with a staff of six hundred to seven thousand; and the large sign for plants with a staff exceeding seven thousand. There is additional detail explaining these two plans.

As Prosecution Exhibit 557 we offer KL-8319, another affidavit by Dr. Struss, on stand-by plants of Farben and its expansion program. Page 12; if your Honor please, page 10 of the German book. It briefly indicates the main stand-by plants and the year. Under II: In order to be prepared for war, I.G. at the request of the Wehrmacht authorities, built a number of stand-by plants. Mention the following: 1. In 1934, stabiliser plant at Krefeld. Total investment of 50,000,000 marks. 2. In 1937 or 1938 Doerberitz was built for the production of aniline and diphenylamine, both intermediates for Valspar. Investment approximately 14,000,000. 3. In 1935 Sauerbrunn built by I.G. as a stand-by plant for the Luftwaffe. 50,000,000 marks, approximate investment. Then he lists additional stand-by plants, Flossberg, Eilsen, Langelsheim, and Doerberitz, for the production of nitric acid.

On the next page, other plants built by I.G. at the request of military agencies started production immediately after completion.

1. The magnesium plant Aken was planned in 1933. Total investment 45,000,000. 1933.

THE PRESIDENT: Pardon me, I hardly believe time would justify your going over those eleven items, Counsel.

MR. ANCHER: I have no intention of doing that.

THE PRESIDENT: Very well, thank you.

MR. ANCHER: Page 14, page 11 of the German, I wish just to call attention to Item 3, the Heydebreck plant for high octane gasoline and so forth, 100,000,000 marks. Proceeding down to Item 11, Auschwitz;

700,000,000 marks. Then, as an interesting reference under III, "In other cases I.G. took the initiative in persuading the Reich authorities of the need for additional facilities and negotiated with them for the construction thereof."

On the next page a reference to Poland, under I: "In Poland I.G. promised to reorganize the dyestuffs factory in 1940 since otherwise the SS would have given competition in this field." Immediately preceding that he indicates that I.G. had a particular interest of its own in following Wehrmacht order requests since I.G. wanted to avoid competition.

As Prosecution Exhibit 668 we offer NI-9619, an affidavit of Dr. Kurock, listing Farben's emergency plant built and planned in peacetime. Page 16, page 13 of the German book. At the bottom of Paragraph Number 2, after the affiant indicates his background: "Within the scope of my work in the Military Economy Office I became acquainted with the following stand-by plants projected and/or constructed before the outbreak of war in 1939 which were to be run by I.G." Then he lists the plants. Under Item 3 he speaks of additional stand-by plants, this coming from an official of the Reich Ministry of Economics.

Prosecution Exhibit 669, which is NI-10,540. With this document and the four succeeding documents we are going to submit the facts in connection with the Wifo. W-i-f-o, I might mention that occasionally we can fall into error. There is a Wipo, which is an administrative agency of Farben under NW-7. It bears no relationship to this Wifo, which is a government corporation directly connected with the financing of plant construction. Exhibit 669, being NI-10, 540, is an affidavit of Dr. Dickmann, who is a former official of I.G. The reference in the table of contents is incorrect. He is a former official of I.G. of Vermittungsstelle W, and this affidavit relates to Wifo. On page 19, if your Honors please, which is page 18 of the German, toward the end of the paragraph marked Number 1, he says, "In 1936 I was commissioned

to go to Vermittlungsstelle W Berlin to take over the management of the office for Sparte I. In that position I had to deal with and supervise all matters of Sparte I. In 1934-36 during my activity in the Oppen Sparten Office, I learned for the first time of the existence in Germany of shadow factories or stand-by plants." Then he itemizes particular plants of which he knew.

Now, toward the end of that particular paragraph: "In the Sparte Office we know of the production facilities of this plant," speaking about Doeberitz," which was to produce concentrated nitric acid for the explosives industry. We knew the amount invested and the owner, namely, the WIFO. Before building the Doeberitz plant, the WIFO had obtained a preliminary cost estimate in order to ascertain whether a firm other than I.G. could construct the shadow factory more cheaply.

Then on the next page, 20, in the English book, at the top of the page, 19 of the German, Number 5: "WIFO was founded as a.G.m.b.H. I learned later on that I.G. also had a part in the foundation to the extent of 8,000 marks in the foundation capital of 20,000. I do not think that there were other firms besides I.G. who participated in the foundation of WIFO. When later on, in 1936, I came to Vermittlungsstelle W, I learned further details about shadow factories, WIFO, and so forth; for example, that the WIFO funds were furnished by the Reich Ministry of Economics; that the orders for the construction of shadow factories came from the OKW, the Military Economic Staff, and in the last analysis originated in the Ordnance Office or, rather, the General Staff. Upon completion of each shadow factory or stand-by factory, I.G. concluded an operational contract, in addition to the building contract."

Then, two lines further down: "According to the instructions of the authorities, I.G. as a private firm was to suffer no losses for operating Reich owned shadow factories." And the next paragraph: "Above all in these operational contracts for shadow factories I.G. had to pledge

itself to keep up the production capacity of the plant and always to preserve its nature of a stand-by plant; that is, to hold this plant always in readiness to start operations or to pen it up. I.G. had to guarantee this readiness to start operating at any time in case of war or 'Mob-Fall' to the WIFO as well as to the Reich Ministry of Economics and OKW." Then beginning with Paragraph 6, he says, "Such a Mob-plan for Doberitz already existed in 1936."

If your Honors will please turn to page 21, the next page, under Number 8, which is page 22 of the German: "As I remember (Dr. Dickmann of I.G.) WIFO only had shadow factories producing raw materials or preliminary products for immediate Wehrmacht requirements, such as concentrated nitric acid, toluene for powder and explosives works. Wehrmacht goods themselves, such as explosives, were produced in shadow factories which did not belong to WIFO but to other Reich owned companies, such as Montan, which was subordinated to the Ordnance Office."

The next page, if your Honors please, 22, which is page 23 of the German book, the second paragraph: "In June 1945 after the collapse when I was working on the sifting and evaluation of GE Ghen files and so forth in the office of the U.S. Bombing Survey at Bad Nauheim, I found out that this Abwehr activity of Vermittlungsstelle W (that is, counter-intelligence activity of Vermittlungsstelle W) must have been to some extent very successful because plants of extreme importance to the German war economy, such as production plants for concentrated nitric acid, toluene, tetra ethyl lead, and so forth, remained either wholly unknown to the Allies or, at any rate, their importance was not recognized and consequently these works mostly escaped bombing.

"My Abwehr activity (my counter-intelligence activity) also encompassed works and plants which were built in occupied countries by I.G. during the war, such as Vatorstadt, Mutterstadt works near Lille, Northern France," and your Honors will recall we had a document with respect to I.G.'s activities in producing explosives and poison gas in

factories of Northern France, and the participant here is testifying to some facts in connection therewith.

THE PRESIDENT: We shall at this time take our afternoon recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. LUMBERT: Dr. Lumbert for the defendant Kuchner. Before the recess the Prosecution submitted the two charts on the wall, which were already previously submitted as Exhibits Nos. 44 and 45. The document numbers for the record are NI-10034 and 10033. The defense would like to determine the fact that it can not recognize the correctness of these charts since the maps are incorrect on different points. As an example for that, I cite the fact that the plants in Austria, for example, Brueckl, Deutsch Wagram, Landeck, Deutsch Matrei, and also the participations in Hungary by way of the E. G. Thiedort, all existed in the year of 1932; therefore, it is not correct to designate them at the right Charts as new acquisitions at this later date. The defense later on in submitting its own evidence will come back to this thing in more detail.

THE PRESIDENT: Thank you, counsel. In the meantime we will appreciate an effort on the part of counsel for the defense and the prosecution to reconcile these alleged errors in the interest of time. But, of course, if you are unable to do so we will see to it that the defendants are afforded proper opportunity to offer such evidence, as they see fit concerning the maps that are in evidence. The prosecution may continue:

MR. ANCHAN: Book 31, if your Honors please, is the first book on plants. Prosecution Exhibit 670 we offer NI-7238, an affidavit by Dencker, the former chief of IG Farben Central Bookkeeping Department, to the effect that the WIFO financing of nitric acid plant had a letter by I.G. Farben where I.G. Farben considered that it had enough nitric acid plants for peace time use; page 24 of the English Book, if your Honors please, page 25 of the German Book. It is rather brief, the second paragraph: "As I recall, the founding of the WIFO was due to the endeavor of the Reich Ministry of Economics to expand the production of nitric acid, for which the I.G. was not prepared to furnish its own means. For the I.G., as far as I know, took the

position that the total facilities available at that time were sufficient to cover the peace time needs.

As Prosecution Exhibit No. 671, we offer NI-9478, an affidavit by Dr. Mulert former official of the Reich Ministry of Economics to the effect that WIFO was created by the Reich Ministry of Economics for construction of factories and storage facilities for sulphuric and hydrochloric acid. Page 25, if your Honors please, page 26 of the German Book, paragraph No. 2: "The WIFO was created with the participation of the Reich Ministry of Economics. One of its tasks was to store motor fuel and to construct factories for the production of sulphuric acid and hydrochloric acid. With the creation of these new facilities the peace time requirements for these products were in my opinion exceeded. As far as I know all these plants were run by I.G."

NI-4498 is already in evidence as Exhibit 601. It is a representative agreement between IG and WIFO on the emergency plant Wolfen, and on page 26 if your Honors please, page 28 of the German. The date 9 April 1937. It is a letter from WIFO addressed to I.G. Farben, the middle paragraph concerning the contractual extension of the new plant in Wolfen and Doberitz: "We confirm that the new plants to be set up will be erected solely for the purposes of the Wehrmacht, that is, for the "A-Fall" and that it would be contrary to the meaning of the contract if the products manufactured in the new plants were used for other purposes, as well, or if they were used for the purposes of the Wehrmacht, so long as the requirements of the Wehrmacht can be fulfilled by the IG from its former factories." April 1937.

As Prosecution's Exhibit No. 672, I have an interrogation of Schmied-Lossberg, relating to the financing of the Montan plant. I might indicate at this point that the preceding documents dealt with WIFO, and the documents that we are about to discuss are relating to financing of Montan. No. 672 was NI-7711, page 29, if your Honors please. Page 79. It is a long interrogation, and I have only picked about one page which gives the salient points of the Montan financing.

"The matter looked to me as follows:" It is at the bottom of page 78: "The matter looked to me as follows: The Army gave orders. The producer was the normal free industry. The orders increased. Either facilities were still free in the industry, or the time allowed for delivery became longer, or the plants enlarged their facilities with their own funds, or, when the plants partly (a) had neither funds, or did not want to use available funds for an enlargement of the plant, they declared that they were not in a position to make delivery by the time set, or to take the orders at all. In such cases, the Army Ordnance Office was then forced either to grant credits under the so-called mobilization clause of the industry, in order to finance the expansion of the facilities in this way, or the Army Ordnance Office had to erect production plants of its own. But since, as a matter of principle, the Reich did not want and was not supposed to produce, it caused these operating plants to be erected through the cooperation of the industry at the expense of the Reich, and after completion transferred them to the Montan for management in trust. Q Did the Montan lease? A. Two kinds of contracts were then closed, a so-called blanket contract, and a lease. The blanket contract was concluded between Montan and the so-called parent plant, for instance, I. G. Farben, Flick and others. In this contract the parent plant had to agree to establish an operating company for the operation of the works turned over to it!

And then they had to:

"Guarantee all obligations of this operating company towards the Montan, as well as towards the Reich." And further down: "The lease was then concluded between the Montan and the newly established operating company. The operating companies then had to pay a rental to Montan. And (b) 50% of the net profits in each case. And at the bottom of the page: "The Army Ordnance Office then also erected plants the taking over of the risks of which could never be demanded of industry."

Then, "I am thinking now of plants such as those which were used for the production of explosives and similar substances. These plants were partly put into operation only at the beginning of the war, and were so intended; they were, therefore, definitely shadow plants." That comes from an official of Montan describing the financial arrangement, and Your Honors will recall in this connection that a few days ago we had a document which was the minutes of a meeting of some of the government agencies and there it was particularly stressed that financing was to be treated as part of the preparation for war, and that we are seeking to indicate here in a general way that the nature of the financing that took place here with respect to increased capital facilities was unusual, outside the ordinary course of business, and on its face the nature of the financial arrangements with respect to the construction of these plants and facilities were enough to charge them with knowledge that something outside of ordinary peace time activities was being contemplated. I mention that as a limited purpose of presentation to show that the financial arrangement with respect to capital facilities was a different variety than the arrangements they had been used to in constructing plants, and as it ties in with the preparation of the government agencies, I think it has significance, so that with the other factors which we indicated, the type and nature of the product, we are emphasizing only for presentation purposes at this time the special effect of the financing for the new and enlargement of the capital facilities.

As Prosecution's Exhibit No. 673 we offer NI-9192. It is an affidavit of Dr. Zeidelheck, chief of the Montan Division and Army Ordnance Office, with respect to Montan plants. Page 33, if Your Honors please, page 83 of the German book. Towards the bottom of the paragraph marked No. 1 the affiant states:

"From 1935 to January 1943 I was the leading business manager of Montan, whose shares were in the hands of the High Command of the Army (GCH). The I.G. and the DAG approached the Army Ordnance Office in a

number of cases with the object of persuading them of the necessity of certain building projects, and of obtaining the building order. This applied especially to the I.G. Wark Huale, which was first a diglycol plant." Then some more details.

A bit further down in the same paragraph:

"The unusually strong participation of I.G. and the DAG in the building projects of the CKE (High Command of the Army) was based principally on the fact that these firms disclosed a particularly pronounced initiative in finding building sites and in the drawing up of specific plans. Without the intensive cooperation of I.G., including DAG, and its experience and initiative the carrying out of the chemical projects of the Army would have been impossible."

Towards the bottom of the page:

"It became, in the Army Ordnance Office, almost a matter of course, when planning in the chemical sector was concerned, to approach I.G. exclusively. The reason for this was that I.G. was unsurpassed in the field of research and development of army-essential materials. This fact was strikingly expressed in the situation that, out of a total of 76 chemical projects of Army Ordnance, no less than 75 were executed by I.G. and either operated or controlled by them." Then the balance of this goes into some detail on the particular plants and figures, which would serve no purpose to go into orally.

There are some references on page 34 to what we call "back home scramble" facilities. That is to say, on a plant or a plot of land where I.G. owned its own plant and facilities and additional plant or extensions were built which were leased by I.G. the leasehold of which went to the government - in other words, title for the new plant was set in the government - the government with its own funds built new facilities on land which belonged to I.G. Farben. This is described in a bit more detail on page 34, and is another method of financing.

I might mention that it appears from here that the land and also the buildings and plant equipment for Montan works, as a rule, belonged to the Reich. When, in exceptional cases, a Montan works was to be affiliated to an existing I.G. factory and built on ground belonging to I.G., a leasehold agreement was concluded with the I.G., for the security of the Reich.

And then he indicates illustrations.

"The I.G. insisted on this form of financing in all cases where the production was war material and no assured peacetime market could be expected."

What we call attention to is that this particular form of financing - what we call scrambled facilities - is so unusual and the affidavit states that the only reason they indulged in that kind of financing was when the facility had no peacetime use.

NI-4491 is already in evidence as Exhibit 354. It's an explanation of the Montan Scheme from the Farben point of view. It's a Farben memorandum.

Page 37, which is Page 88 of the German book, under the subject matter "Cover agreement between OKH and I.G.", it says:

"Responsibilities of I.G.: to handle these plants and equipment with the care of a proper merchant and technician, to maintain good working order, and to commence work at the request of OKH."

If you turn to the next page, if Your Honors please, about the fourth paragraph down from the top, which is page 89 of the German:

"On expiration of the building inheritance right..."

They're discussing agreements between Montan and I.G.

"...it will be jointly ascertained whether and to what extent the plant may be used industrially by I.G."

In the affirmative case...."

That is, if it is to be used by I.G.

"....I.G. to agree to pay the current price fixed in common agreement. In the negative case 'Montan' to see to it that the plant is pulled down and the ground is returned in a fit state for building thereon."

Then, you'll note, under 4, some detailed discussions of the lease agreements between I.G. and Montan. Farben's own memorandum as to what the financing on the Montan set-up is.

NI-5685 is already in evidence as Prosecution Exhibit 353. It's a memorandum of a conference at Troisdorf concerning Montan and I.G. schemes for building and operating factories for Wehrmacht agencies. Conference is January, 1939. There's discussion of the application of the Montan financing to D.A.G. and its subsidiary companies.

Page 40, if Your Honors please, which is page 91, about the fourth paragraph down. This is the application of D.A.G. and Farben to the Montan financing:

"All the independent production plants set up by the DAG works are to be dealt with under this scheme. In as much as plants are available in the DAG works themselves which were at one time financed by the Reich, special rulings apply. The aim is that such plants be taken over by the DAG."

And then, the next paragraph:

"The daughter company of the DAG concerned is the Gesellschaft, etc...", which is listed on that chart that we have. "Its company capital consisting of RM 300,000 is held entirely by the DAG. Only officials of the DAG are appointed as managers. The Aufsichtsrat consists of the Vorstand of the DAG...", and the other two Ministers are officers of Army Ordnance.

The next paragraph:

"Dr. Schmidt...." That is not the defendant Dr. Schmitz. "...mentioned at the same time that the Wasag worked on the Montan scheme as well, and accordingly the daughter company of Wasag was the Deutsche Sprengstoffchemie Gesellschaft," which your Honors will recall listed on the chart below Wasag. "This company had previously been a joint undertaking of DAG and Wasag but now belonged entirely to Wasag."

Your Honors will note at page 42, although this meeting was 31 January 1939, a copy of the minutes, on the application of the DAG and its subsidiary to the Montan scheme, goes to the defendant Ter Keer - Page 42 - and the defendant Ambros, tying them in with DAG and its subsidiary.

As Prosecution Exhibit 674... Sorry, NI 772 was already in evidence as Prosecution Exhibit 600. It's a contract dated November, 1937 - 1937, whereby the operation of the Montan plants by Wasag and the DAG subsidiary is guaranteed to be for the exclusive use of the Reich War Department. Your Honors will recall, when we discussed the map, I asked Your Honors to note this document coming up.

Page 43, if Your Honors please, which is page 94. It's an omnibus contract between Wasag and the German Reich, and at page 45, under Article 20, which is 97 of the German:

"The firm...", that is Wasag, "...undertakes to keep secret this contract, the subsequent separate contracts, and the correspondence carried on for their accomplishment, as well as the lists and files belonging to it. Their contents or the individual stipulations thereof are only to be disclosed to the absolutely necessary extent and merely to those persons who have to be entrusted, directed or indirectly, with the dealing with and execution of the contracts."

And page 46, Your Honor will note the date - November, 1935.

And at page 47, if Your Honor please, which is page 55;

"Declaration of guarantee and obligation.

"The undersigned partners to the Deutsche Sprengchemie..." you will recall that on the chart, "...guarantee to the German Reich without limitation of time and irrevocably.

"1. That the activities of the Deutsche Sprengchemie S.m.b.H. will be limited exclusively to the purposes of the Reich War Minister."

JUDGE MORRIS: Mr. Anchan, I wonder if it's necessary to go into this matter as extensively as you are doing, because the details are perhaps of doubtful relevance. The fact that the contracts have been entered into may be of some probative value, but I doubt if we are very much interested in all the intricate details of financing and the terms of those various complicated contracts.

MR. ANCHAN: I have no intention, if Your Honor please, to go into any detail which might appear to be irrelevant. With all due respect, if Your Honor please, I respectfully submit that some of this is necessary as indicating a general deviation from the normal financing arrangement. I really do not intend to burden Your Honor on the oral presentation with any detail, and I am trying, to the best of my ability, to use discretion so as to stay away from detail, but I think that, in so far as I can generally indicate the general scheme of the financing of these plants, it would be helpful to an understanding, but if I am using discretion I shall, of course, respectfully retreat and omit unnecessary detail.

THE PRESIDENT: I might add to what my associate has said that, in the final analysis, the matter of relevancy must of necessity be determined by the Tribunal.

MR. ANCHAN: As Prosecution Exhibit 574, we offer NI 7765, which is a blanket agreement, dated 23 May 1939, by DAG, re: The operation of the Montan plant, by its subsidiary, "Verwertchemie". The point of this document is to indicate DAG guaranteeing performance of its subsidiary which we referred to on the chart.

NI-771 is already in evidence as Prosecution Exhibit 599. It's a omnibus agreement between DAG and the Army High Command re: the secrecy in the operation of the Montan plants.

Page 52, if Your Honors please, which is 107, I just call attention, in passing, that right below "page 2 of the original", the lease comes to the Gesellschaft zur Verwertung Chemischer...

Then, to the following page, I just ask Your Honors to note the detailed reference to early orders, beginning with 1934, with respect to explosives, and that continues in the first few clauses - reference to prior transactions.

As Prosecution Exhibit 6780... I'm sorry. As Prosecution Exhibit 675, we offer NI-5730. It's a representative agreement between Montan and a subsidiary of DAG and the agreement indicates the manner of operation and secrecy. I think the agreement will have to be read to get its full import.

As Prosecution Exhibit 676, we offer NI-6482. It's a letter from I.G. to the Reich Air Ministry, dated 30 September 1938, submitting details for the construction of a new plant for the production of Bi IV/1, which I understand is magnesium.

Page 70, if Your Honors please, which is page 131, Your Honors will note the date - 30 September 1938, and it's addressed to the Reich Minister for Air and Commander-in-Chief of the Luftwaffe. The second paragraph:

"At the meeting in Berlin at the Reich Air Ministry on the 25th of July, 1938 - July, 1938 - it was agreed that I.G. can not build the plant at its own expense, in view of the fact that the projected plant is to be a standby plant, but that the funds for its construction will be furnished by the Reich Air Ministry."

As Prosecution Exhibit 877, we offer NI-6504, secret letter from I.G. to the Reich Air Ministry, dated 11 March 1938, suggesting Stassfurt as the location of the magnesium plant. We have already referred to Stassfurt as a secret plant for the production of magnesium.

NI-4490 is already in evidence as Exhibit 114. It's an I.G. memorandum on discussions held with Reich agencies, 13 November, 1936, regarding the contemplated erection of emergency plants by I.G.

At page 74, if Your Honor please, we had this before. I just call attention to the second paragraph. 135 of the German book.

"Dr. Zahn told me that in his opinion two more plants for the manufacture of calcium sulphuric acid would be needed as emergency plants, the location of which, however, was not fixed yet." November, 1936.

4493 is already in evidence as Exhibit 594. It is a copy of a building agreement between I. G. and OKH on the erection of an emergency plant at Wolfen. I think we have sufficiently discussed the Wolfen plant, and it is just further proof.

Now at page 76 is the building contract and I think a glance at this will indicate the general nature. This is the first building contract which has come up. The preamble, the first few lines:

"At the request of the OKH and by reason of a skeleton agreement concluded between the OKH and I.G., dated 24/10 to 2/11/1939 -- " '36" it should be. That is an error. It should be '36. That is referring to an agreement in 1936 -- "I.G. has on the account of the OKH made various stand-by plants and adjoining supplementary and auxiliary plants available for the production of diglycol and stabilizers", etc., and then under (2) you will see a detailed list of stand-by plants indicated. In the detailed list Your Honors will note again the reference to orders for intermediates and the production of explosives, gunpowder and poison gas. At page 79, if Your Honors please, 139:

"According to the provisions of this agreement, I.G. undertakes to build the installations named in paragraph 2."

As Prosecution Exhibit 678 we offer NI-4856. It is minutes of a meeting of the Technical Committee dated 1943, and it contains recitals indicating that Huels, Moosbierbaum and Hassenberg were built in 1938 and also that their production was not required for peacetime needs.

On page 84, if Your Honors please, which is 144, Your Honors will note the participants, Schmitz, Schneider, Bueckfisch, Ter Meer, Ambros, Thuester, Lautenschlaeger, Jaehne, Kuehne, and on the next page Buergin and Gajewski, and von Knieriem and von Schnitzler as guests.

In the first paragraph of the printed matter at this meeting they are discussing transferring and safeguarding of war-important manufactured goods.

"The increasing probability that important production factories will be put out of action completely or partly by enemy action has given cause for an examination of the measures, which had already been taken some years previously, for the transfer of factories and for the decentralization of geographical production distribution."

Further down on the page Your Honors will note the reference to particular plants and the dates when constructed.

NI-7378 is already in evidence as Prosecution Exhibit 234. It is a letter from I. G. to the Army Ordnance relating to the construction of shadow plants for aluminum chloride in July, 1939. At page 88, if Your Honors please, you will note the date, 11 July, 1939, and in the second paragraph:

"It has been planned to produce the aluminum chloride from aluminum metal in these stand-by plants as in the 'Fall Case'."

NI-6764 is already in evidence as Exhibit 623. It is a letter from I. G. Farben and Bitterfeld to the local government in December, '36, and April, '37, regarding the construction of ethylene oxide magnesium production plant. Page 90, if Your Honors please, which is 159, just the date 1936, ethylene oxide works at Gladbeck, and if you turn over the page, you see further correspondence signed by the defendant, Baergin, at the bottom.

I think, if Your Honors please, that concludes Book XXXI, the first book on plants.

We are on Book XXXII. As Prosecution Exhibit 679 we offer NI-7833. It is a memorandum of a discussion with Krauch on the various drafts between I. G. and the government offices about agreements. Page 1, if Your Honors please, at the bottom of the page: "Vermittlungsstelle 47, To Director Bendel.

"Dr. Krauch wants to have a report on the treatment in case

and present contracts of financial participation in private firms; e.g. Leuna contract during the war." The date Your Honors will note, July, 1936. On page 2 is a table of contents of the particular type of contracts which were sent to Dr. Krauch, and Your Honors will just note briefly:

"1) Synthetic gasoline at Leuna, 4) Experiments on manufacture of glycerine through fermenting sugar, 7) Aschendorff field of ethylene oxide, 9) Aviation gasoline," and the individual plants. That is July, 1936.

At page 5, if Your Honors please, page 6 of the German, under "Schkopau" under "a)" you will note the amortization rate, 20% a year, giving them five years to recapture their own investment, which gives that plant a life of five years which is by far extraordinary from a financial point of view.

At page 7, if Your Honors please, page 9, under "c)" they are discussing the type of contracts relating to reimbursement for experimental costs, and after identifying a particular contract, this memo to Krauch says:

"This order is for pure research. I. G. does not undertake to guarantee results." And further down:

"Should RKM -- a government agency -- decide to start current production, I. G. shall be given first option."

The point of this is that they would have had an arrangement with the German Government in 1936, undertaking research to be reimbursed for cost, no guarantee, with an option, the first option in the event they start production.

At page 11, if Your Honors please, under "Doeberitz", page 16 of the German, Doeberitz, Your Honors will recall, was a concentrated nitric acid plant. The first few lines:

"In accordance with a promise given by Geheimrat Schmitz to the government -- that is the defendant Schmitz -- to the effect that I. G. was ready to erect and maintain a plant for the production of X

on such terms", and so on. The contract was concluded, promised by the defendant Schmitz.

As Prosecution Exhibit 680 we offer NI-2861. It is a Tsa report of October, 1936, and February, 1937, relating to credit for the Four Year Plan. Page 13, which is 18 of the German:

"Of the credits of 100,000,000 marks available to Tsa on 20 October 1936, about 77 millions are reserved under the Four Year Plan."

At Page 14, if Your Honors please, which is page 19, this is a report going to the Tsa Bureau from Leverkusen which describes in detail what plants come under the Four Year Plan and what the special type of financial arrangement is.

At the next page, page 15, which is a memorandum of 23 February 1937 again to the Tsa Bureau from Ludwigshafen, describing in detail what plants are under what financial arrangements and for what purposes. The point of this document, if Your Honors please, is, it shows a continuous practice within I. G. with detailed reports with respect to the new construction and expansion of facilities as submitted to the Tsa, and, of course, it necessarily shows knowledge the Tsa must have had to approve of the expenditures; and Your Honors previously in the corporate organization have seen how the Vorstand is tied up.

NI-5899 is already in evidence as Exhibit 450. It is the minutes of a technical management at Hoechst in January, 1937. It deals with the increased amortization of investments under the Four Year Plan. At page 32, if Your Honors please, which is page 30 of the German book, Your Honors will note the defendant Jaehn is present and Lautenschlaeger, and then at the bottom of the page:

"Hoechst intended to adopt the following procedure: The amortization of the new plants which were to be put into operation only in the course of January and February, 1937, was to be commenced as early as 1936", a special financial arrangement.

As Prosecution Exhibit 681 we offer NI-8202. It is a meeting

of the Aufsichtsrat of I. G. in June of 1939, and the defendant Schmitz is giving a report of I. G.'s business in 1938. Page 36, if Your Honors please, which is page 31 of the German book, under points 2 and 3 of the agenda, which is at page 32 of the book:

"Geheimrat Schmitz gave a comprehensive survey of the development of our business during the year 1938 and during the first quarter of 1939. As a result of the extension of our production plants and research departments and of the acquisition of shares made necessary pursuant to the annexation of Austria and the Sudetenland, our financial resources had to be strongly called upon, so that the loan -- " etc. -- "would now take place."

NI-10,036 is already in evidence as Exhibit 428. It is an affidavit of Dr. Hagert showing IG's share in the expansion of capacities under the Four-Year Plan from October, 1936, to May, 1937. Page 40, if your Honors please. It is page 37. After discussing detailed figures, the affiant concludes:

"It follows that the projected investments for chemical production amounted to 91.5 per cent of the total investments to be made under the Four Year Plan. As can be seen from the other affidavit sworn to by me under today's date, and marked Document No. NI-10035, the share of I.G. in the investments for the chemical side of the four Year Plan amounts to 72.7."

Then some additional details follow. The general percentages we think indicate just what the picture is.

NI-10035 is already in evidence as Exhibit 429. It is another affidavit of Dr. Hagert showing I. G. Farben's plant expansion under the Four Year Plan. Page 44, at the top of the page; 43 of the German. After going through detailed figures, the affidavit concludes:

"As can be seen from the comparison of the totals recorded in columns 4 and 5, referred to I.G.'s share in the total of money to be invested in the above chemical products amounts to 72.7 per cent. If mineral oils are excluded from the table given above, as being not a strictly chemical product, I.G.'s share in the planned strictly chemical total investments amounts to 85.7."

I know figures are rather difficult to present orally, and I am really trying to hit the high spots.

As Prosecution Exhibit 662, we present NI-9656, an affidavit by Colonel Kormar, who was a former Under-Secretary of State for the Four Year Plan, and the nature of his affidavit is to the effect that while the steel industry refused to cooperate in the Four Year Plan, Farben on the other hand went right along and in fact backed it to the hilt.

Page 45, if Your Honors please, which is 45 of the German,
1251

under paragraph No. 2:

"In the fall of 1936 it became evident that the Iron Producing Industry under the leadership of Voegler, Wenzel, and others, was not willing to open up the Salzgitter area within the framework of the Four Year Plan.

"Despite all Gearing's protests they maintained their negative attitude. The Iron Producing Industry was therefore only to a relatively small extent engaged in projects of the Four Year Plan, and the planned large projects in this field were carried out by the Hermann Gearing Works which were founded for this purpose in 1937."

And then he gives the costs.

On the next page, 46, under Item 3:

"As the existing German coal production capacities for 1937 were sufficient, and as the Iron Producing Industry refused to collaborate in the Salzgitter project, the I.G. and their licensed firms had the largest share in the expansion projects of the raw material plan within the Four Year Plan, 1937. As is known, I.G. was willing to support the Four Year Plan projects at any time."

If your Honors please, I might suggest that in view of the fact that the next document is a chart, I might want to spend more time on it and it would not be helpful to break the explanation up. In view of the hour, I think it might be wise to suspend.

THE PRESIDENT: We have covered considerable territory and I think the Tribunal may as well rise. I read the announcements. I think we will suspend the receipt of any further documents today and perhaps the Prosecution may have some announcements to make.

Do you have anything to say, Mr. Sprecher?

MR. SPRECHER: None, your Honor, but I trust that by tomorrow morning we can have the statement by the Defense as to the program --

JUDGE MORRIS: May I inquire about the books for tomorrow. We are on 32, and according to the information you gave us that would be followed by 37 and then by 38, 39, 40 and 41. Is that still the

order or procedure?

MR. SPRECHER: Yes, Judge Morris, and I don't know if we will be ready to go beyond that tomorrow or not, in view of the fact that we can't call the witness we had planned to call.

JUDGE MORRIS: I appreciate that.

MR. SPRECHER: I will try to make a further announcement on that point tomorrow noon, if necessary.

JUDGE MORRIS: Thank you. You mean to say you are not prepared to go beyond 41.

THE PRESIDENT: I think you have laid out a good day's work if you go from 32 to 41.

The Tribunal will now rise until nine-thirty tomorrow morning.

(The Tribunal adjourned until 26 September 1947 at 0930 hours.)

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 26 September 1947, 0930-1630, Justice Snake, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI. Military Tribunal No. VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Are the defendants present?

THE MARSHAL: May it please Your Honors, all defendants are present save the defendant Wurster who is absent due to illness.

THE PRESIDENT: Are there any motions to be presented?

If not, the Prosecution may proceed.

MR. SPRECHER: May it please the Tribunal, the question concerning the ordering of witnesses has reached a rather crucial stage as far as the Prosecution is concerned. Under the situation prevailing in Germany, it is not exactly easy to produce witnesses on very short notice, and when witnesses are produced on short notice, normally in these cases the person who object most are Defense Counsel. Now we have attempted to make an arrangement and to give advance notice of desiring to arrange a program for more than a week, and still we have not heard a definite statement before this Court, after we had postponed our statement for some time, from the Defense Counsel, and it was my understanding in any event that we would hear about that matter at least by this morning.

THE PRESIDENT: Is any member of Defense Counsel authorized to speak with respect to that subject?

DR. MELTE: Melte. (for the defendant Hoerlein)

I ask your pardon, Your Honor, that I have come in a minute too late and didn't hear the statement which Mr. Sprecher just made. The Defense last night had a conference and asked me to tell you and the Prosecution the following matter. Yesterday the Prosecution gave a lengthy statement in which it listed its goals for the immediate future

as regards this trial. At the same time it submitted a list of one hundred fifty affidavits which were given by fifty affidavit witnesses or will still be submitted by them, and this memorandum of the Prosecution was to be handed to all the Defense Counsel by yesterday afternoon 4 o'clock. Unfortunately the Prosecution was not in the position to do so for we only received a few copies so that the majority of Defense Counsel during the conference yesterday did not have any exact information, that is, they did not have the exact text of the memorandum, but the German translation of the memorandum contained non-clarities which made it impossible for us during the conference to recognize the exact sense which the Prosecution meant to convey.

The Defense despite detailed conferences lasting for over 2 hours, had to postpone defining its final attitude on the subject and had to rely on a personal conference with the Prosecution in order to clarify the German text and the exact sense of the memorandum. But even now the Defense would like to submit as a directive for its conference with the Prosecution - would like to state that according to the principles recognized at the American Military Tribunals here that there may be no doubt that in all cases in which the Prosecution has submitted an affidavit or will submit an affidavit, it is a right of the Defense to decide whether and when they want to call the affiant to the witness stand. In the past the Defense has stated and has had me repeat the statement, that it will reach an understanding with the Prosecution about these cases as the cases come up not only in the interest of a proper proceeding, but also in consideration of the interests of the Defense and, namely, the interests of the defendants.

The Defense hopes in its conferences with the Prosecution about the list of one hundred fifty affidavits and fifty affiants to reach a result which will further the proceedings and will do justice to the interests of the defendants.

THE PRESIDENT: Does the Prosecution have any observations?

MR. SPEECHER: Yes, indeed, Your Honor. We indeed do. By what I am going to say, I want it made very clear to the Defense that I intend absolutely no reproach. Perhaps they are faced with some difficult situations, but I must say I don't think we have seen all of them yet before us on this record today.

Yesterday the Defense, firstly had the normal means of understanding the motion that was made, and, secondly, thereafter they received before the noon recess four copies in the German where the crucial paragraphs were checked by a representative of my own staff so far as the translation was concerned. The meeting of the Defense was at five o'clock. At no time was I asked or anyone else on the Prosecution staff asked for further copies or for further clarification concerning that translation, nor were we asked at any time for any clarification concerning the text or the sense of that memorandum or of the remarks which were made yesterday morning.

Now there has been, quite apart from my statement yesterday morning, a considerable amount of discussion with Defense Counsel on this topic. I think it could have been shortened a great deal because Dr. Nelte this morning in effect has indicated what is the difficulty. The difficulty plainly and simply, it seems to me, is that the Defense wants to impose what is a rather unusual rule where the Prosecution in its case in chief is attempting to arrange an orderly scheduling of its case and, at the same time, try to pay some attention to the desires of Defense Counsel and to the arranging of its program in a way which will bring as little inconvenience as possible.

If I understand Dr. Nelte correctly, he merely is stating that the Defense in so many words can decide whether and when it will call witnesses where the Prosecution has adduced evidence through those persons by means of affidavits. Now if that were the sole problem that was before us during all of these conferences that I have had with the Defense, and if that were their simple position, I have been wasting a

tremendous amount of time, and I have been delaying this Tribunal by not making the Prosecution's position clear at a much earlier stage, and that should not have been difficult to have done had I had what appears to have been a position by the Defense which could have been raised very early here so we could have had a understanding about it.

THE PRESIDENT: Let me see if the Tribunal understands the respective positions of the parties. As the President understood from the comment of the Prosecution yesterday, it was the desire of the Prosecution to arrange a schedule under which the affiants whose affidavits have been offered in evidence by the Prosecution would be presented for cross examination at certain natural breaking points in the Prosecution's case, perhaps definitely at the conclusion of evidence on certain counts or parts of counts, and that the Prosecution was anxious to know whether that approach of the problem would be satisfactory in order that it might make the necessary arrangements to have the witnesses available for cross examination at the proper time. Now is that correct? Is that the fundamental of the Prosecution's position?

MR. SPECKER: In a larger sense I should say that was the fundamental basis of our position with the following addition, Your Honor. The introduction of affidavits being permitted as it is underneath the Ordinance No. 7, the Prosecution, attempting to fit in pieces of information which fit into the proof at particular points, has used that means; but we ourselves have intended to put before Your Honors the witnesses who have given many of those affidavits regardless of whether the Defense should want to do that, so it isn't solely a matter of cross-examination. That is what I mean to say.

THE PRESIDENT: Are we correct also in assuming that it is the position of the Defense that they should have the right to indicate what affiants are to be cross examined and at what time they are to be produced by the Prosecution for cross examination with respect to those affidavits? Is that correct, Counsel?

DR. MELTZ: It is the opinion of the Defense that in case of a submission of affidavits by the Prosecution, the interest of the Prosecution is, first of all, fulfilled with the fact of the submission of the affidavit, for the Prosecution has the choice of bringing in a free witness or submitting an affidavit. If it chooses the affidavit, the submission and the acceptance of the affidavit does justice to the cause of the Prosecution, for the witness can only confirm on the witness stand what the Prosecution in many cases has already questioned the witness about in one or more affidavits. Therefore, in the opinion of the Defense, at the moment of the submission of the affidavit the interest of the defendant begins.

If the Defense, on the one hand, can simply agree to the submission of an affidavit, then the Defense can state, on the other hand that it wishes to call this witness for cross examination.

We are of the opinion that the demand of the prosecution to call the witnesses who have given affidavits for direct examination must give way to the interests of the defendants to determine not only whether but also when this witness is to appear. This seems to us to be particularly important in those cases in which the preparation of the cross examination takes almost as much time as the preparation of the affidavits by the Prosecution.

Not only before the beginning of this trial, but also during this trial, the Prosecution has had time without impairing the cause of the Defense to confirm these statements, and we believe that it would be a fair trial if the defendants and the Defense would have the right to state whether in individual cases the cross examination should take place at a certain time, or after a certain interval and on a certain occasion. This occasion could under certain circumstances -- and this has already been said by a colleague of mine -- perhaps come up during the presentation of evidence by the defense.

In order to sum this up, it is the opinion of the Defense that after the interest of the Prosecution has been served by the introduction of the affidavits, it must be decisive for the Defense, and for the Tribunal, too, in my opinion, that the Defense at that moment takes up the cross examination in which it seems this appropriate in the interests of the defendants. This, too, is the recognized procedure before the Military Tribunal here.

THE PRESIDENT: Of course, Counsel for the Defense must be advised of the fact that affidavits are permissible under the peculiar practice before these Tribunals and that affidavits are used in lieu of the personal attendance of witnesses and their testifying on the witness stand. If a witness is produced in person, there can be no question about the obligation on the Defense to exercise its right of cross

examination at the conclusion of the testimony of the witness-in-chief and in that connection it may be observed that the Defense is perhaps in a better position to cross examine whenever the affiant is produced than it would be if the witness had been produced in person, because Counsel for the Defense has before him the affidavit and is advised of the nature and character of the testimony that the affiant has offered.

The Tribunal has been hopeful that following past practice you gentlemen would be able to agree upon a simple and orderly procedure for meeting this problem. It is apparent that that has not been accomplished, and it is not too clear that it may be expected. It appears to us that this is a matter in which the Tribunal may find itself in the unhappy situation of proscribing a procedure. How to accomplish that, to bring this matter to a conclusion, the Chair is going to suggest to the Prosecution and to the Defense that each of you at a time to be fixed presently shall present to this Tribunal in writing simply and directly what you think the practice should be with respect to the matter in controversy. We shall take your respective views and consider the matter, if necessary, call on you for any further discussion which we do not presently anticipate will be necessary, and then we shall formulate and place in the record for your information the practice that we shall expect to be followed concerning the cross examination as it relates to these affidavits.

Now, Mr. Prosecutor, how soon can the Prosecution present to us in a simple, terse form a statement of what you think the practice should be concerning this matter?

MR. SPEECHER: Tuesday morning. Next Tuesday morning, Your Honor.

THE PRESIDENT: Can the Defense by next Tuesday morning present to the Tribunal in writing a simple statement of what it thinks the practice should be with respect to this matter?

DR. BELTE: I shall try to talk about this with my colleagues, and I hope it will be possible to do this by the same date, but I would like to make clear that the question which we have discussed this

morning constitutes only one point of several which might be settled here at this occasion.

THE PRESIDENT: Concerning the point now under consideration, the Tribunal will fix the opening session at nine-thirty Tuesday morning for the Prosecution and the Defense respectively to present in writing to the Tribunal their conception of what the practice should be, and the Tribunal will undertake to as promptly as possible prescribe the practice in that regard, and I may say that if either Counsel for the Defense or the Prosecution are derelict in the presenting of the proposed procedure, it shall not delay action on the part of the Tribunal, and we will pass that matter until Tuesday morning at nine-thirty.

Now in the meantime if Counsel has something else to present, we shall be glad to hear you.

DR. WAGNER: I beg your pardon. Attorney Wagner.

I beg your pardon, Your Honor, at the determination of a deadline I would like to consider that we consist of twenty-four main Defense Counsel and twenty-four assistants. These are forty-eight people, whereas the Prosecution is an agency which can much more easily make decisions. Attorneys have very independent opinions, and in order to reach a clarification, they have to have a conference which isn't always as simple as is the case with a government agency. Added to this is the fact that we are now before the weekend. During this weekend some colleagues are forced to concern themselves with the other part of their work, so that it is impossible, in my opinion, to have the necessary conference at such an early date to afford the Tribunal getting a really clarified statement of our opinion by Tuesday morning. I believe I had to present this viewpoint here because I am convinced that a great number of my colleagues have the same opinion.

26 Sept 47-3-1-N-ASH-Schwab (Lea)

THE PRESIDENT: The Tribunal is not impressed with the thought that this is such a laborious proposition that it ought to be either impossible or difficult, between now and Tuesday morning, to formulate a simple statement of what the Defense considers ought to be proper practice in an instance of this kind. We realize, of course, that there are many members of the staff or the counsel for the Defense-- that it is one of the handicaps under which we work. But certainly it is not imposing any more of a burden on the Defense to give you until Tuesday morning to tell us what you think the practice ought to be than it would be to impose upon three members of the Tribunal when you make an objection and ask for a ruling, and expect the Tribunal to act instantly.

Now, we have not decided yet whether we will be in session on Monday but if we are not in session on Monday-- and perhaps we should not be under the circumstances--that ought to afford you gentlemen barely an opportunity to agree upon a policy. Of course it is possible that you may not be able to agree upon a policy; and if there is a division of thought among your own group, and you want to bring in two reports--a majority report and minority report-- we will consider both of them.

But we must, gentlemen, if we are to proceed with the orderly development of this Tribunal--we must settle the matter of practice.

I should like just a moment to consult with my associates about this matter of time, and I will state to you in a moment what our decision is as to when these reports should be in.

The members of the Tribunal are unanimously of the opinion that it is highly important that we bring this matter to a conclusion. I am authorized to say further that if we

26 Sept 47-3-2-M-AEH-Schwab (Lea)

cannot have your views on this matter by Tuesday morning we shall be obliged to act on the subject matter without your views; and I repeat what was said before: If you gentlemen of the Defense have some difficulty of agreeing upon a program and there is some division of thought among yourselves as to what the practice should be, we shall be glad to receive the views of the respective groups. If part of you think one thing and part another, get your views to us in writing, and very briefly and tersely. We are not caring for any more argument on this matter. We simply want you to reduce to writing what you think these rules should be. The same applies to the Prosecution. And the deadline for presenting those is Tuesday morning, at the opening session, and the Tribunal will just as promptly as possible put the matter at rest after that time.

Now, is there anything else that needs to be mentioned before we proceed with the Trial? If not, the Prosecution may proceed.

MR. ALCHAN: We are at Book 32, if Your Honors please, the second book relating to Plant Facilities. We have handed up to Your Honors a loose sheet, Document NI-9548, that already appears in Book 38 in connection with Count 1a. It has been previously served upon the Defense. We think it would be more appropriate to deal with this document in connection with Plant Facilities. Probably at the beginning of Book 32 it would be an appropriate place to deal with this document.

Accordingly, we offer in evidence, as Prosecution Exhibit 683, NI-9548. It is a memorandum to I.G. Farben relating to the construction of a nickel plant. And at page 2, if Your Honors please, is what we call attention to at this point. Your Honors will note the date. Reference letter of 13

26 Sept 47-3-3-M-Adm-Schwab (Lea)

August 1937, addressed to I.G. Farben Vermittlungsstelle W. It is quite brief. "In consideration of the interests of military policy, a nickel plant with a capacity of a minimum of 2000 tons per year is to be set up in central Germany. You are, therefore, requested to plant the plant in Nachterstedt for a production of 2000 tons per year."

As Prosecution Exhibit 684 we offer NI-10001. It is a chart relating to investments and plants of I.G. Farben and I.G.-controlled companies, with an affidavit of Reichischer showing the investments for the period from '32 to '44. Page 47, if Your Honors please, we have the chart. Page 48 of the German book. Your Honors will note there are practically three sub-divisions of figures; the first one, the column cutting across to the right--the investments of I.G. itself. The second sub-total, the investment of I.G. 100% subsidiaries; and the third total, another type of subsidiary where the control is less than 100%. So that, in order to get the total picture for one given year, you really have to add I.G. itself, its investments, plus the other two sub-totals.

Just briefly, as we proceed, you get the acceleration in the investment and plant facilities. We take I.G. in 1932: approximately 19 million marks. You will note the acceleration in investments in 1935; it hits 104 million. And then the big year--1938--244,000,737. You will note a similar acceleration in investments with respect to the subsidiaries. 1938 is interesting, if Your Honors will add the totals: 244,000,116, in '42--you will get a figure approximately of 400 million spent for capital investments in 1938.

The significance of that is not so much the sum-total that we get at the end, but year by year there is a steady

26 Sept 47-3-4-M-A-K-Schwab (Lea)

increase in capital investments.

As Prosecution Exhibit 685 we offer NI-10013. It is an affidavit explaining how the chart which we just discussed was compiled, and the affidavit is self-explanatory.

As Prosecution Exhibit 686 we offer NI-5813. It is a meeting of I.G. Farben's Vorstand (Board of Directors) and if Your Honors will turn to page 52 certain significant discussions at that meeting will be indicated. The meeting, incidentally, was held in September 1941. The minutes say: Present: all members of the Vorstand--all members of the Vorstand--with the exception of Mr. Leibell, excused. At page 52, which is page 54 of the German book, one significant paragraph:

"Credits for new buildings including the new credits allowed at the last 'TSA' meeting, less the estimate of expenses until the end of September amounted to 1.8 Billion Reichs mark. To this must be added a few more which are about to materialize, even if they have not actually been granted, so that one can count on total credits amounting to approximately 2 billion Reichsmark. In comparison herewith it was pointed out that the total expenses for new construction work of I.G. from 1932 to the beginning of 1941, had also amounted to 2 billion Reichsmark. The 400 million Reichsmark spent in 1938 represented the largest amount expended in any one year..."

The chart I just discussed indicated about 400 million spent in 1938, and here are the minutes of the Vorstand coming to the same figure. And then there is further discussion of figures. This is 1941, the Vorstand telling every member present as to what transpired before, of facts to which they participated previously.

As Prosecution Exhibit 687 we offer in evidence NI-10007.

26 Sept 47-3-5-N-AM-Schwab (Lee)

It is a chart relating to investments in eighteen strategic materials in I.G. and I.G.-controlled companies for the period from '32 through '44, with an affidavit by Struss. We have had similar charts giving the figures from a different angle, and a glance at the chart will indicate its purpose, and no discussion is necessary.

As Prosecution Exhibit 628--

DR. TROWER: May I remind the Tribunal that Exhibit No. 637 carries two headings in the German book: one German heading and one English heading. In the German heading they say that it lists eighteen important products--that would be in English "eighteen important materials". But it is translated here in this list as "eighteen important materials". There seems to be quite a difference to me between "important products" and "strategic products". I would like to point to this difference in the translation.

MR. CRAWFORD: Your Honors, the chart in question is not a translation, and no question of translation is involved in one sense at all. Dr. Struss understands some English, and he was talked to concerning strategic materials in the English, and the chart that is actually signed has the double heading on it with the words "15 Strategic Materials" in the English, and, in the German "15 wichtige Erzeugnisse." I think that it is clear from the juxtaposition of those two words that "strategic" was meant. In any event, we think it is very plain that these 19 materials are 18 strategic materials in connection with the preparation for war.

THE PRESIDENT: Whether the material listed in the chart should be classified as strategic or important really is a matter for the Tribunal to decide. I think we can solve the whole problem by just on our own copies striking out

26 Sept 47-3-6-M-AEH-Schwab (Lea)

that first line on the heading. It doesn't make any difference anyway; and let the Tribunal determine whether or not the articles listed there are classified as counsel for the Prosecution? or the Defense. We shall do that and solve any controversy.

MR. MCHALE: I believe I already offered, as Exhibit 688, NI-10020. It is an affidavit of Dr. Struss's explaining how the figures in the proceeding chart were compiled, and the affidavit is self-explanatory.

As Prosecution Exhibit 689 we offer a graph, NI-10025, Exhibit 689, prepared by Dr. Struss which in a more visual fashion indicates the acceleration of the investments in those strategic charts.

I might suggest to Your Honors that some of these graphs look alike but have different numbers. We had a graph which looked something like this, but that graph related to production in 18 strategic materials. This graph is the investments in the strategic materials. It is NI-10025. In considering the chart NI-10007 it would be very helpful to have with Your Honors the graph which will give you a little more graphic picture and a better interpretation as set forth in the chart.

As Prosecution Exhibit 690, we offer NI-10926. It is an affidavit of Hagert comparing the investments of I.G. in war plants as against its total investments. At page 66 Your Honors will see the graph reproduced, the heavy line--this is a comparative figure set out in the graph--is the investments in the 18 strategic materials, and the dotted line is the investments in other products. This is I.G. figures alone without, as I understand it, the subsidiaries.

The next five documents we can proceed with rather rapidly: NI-10004 we offer as Exhibit 691. It is a chart

26 Sept 47-3-7-M-AH-Schwab (Lear)

showing the financial connection between the I.G. and the Reich's and Wehrmacht's agencies. And if Your Honors will turn to page 68, 70 of the German book, I would like to indicate the relation of this chart now to the one we had a moment ago which dealt with the investments of I.G. Farben and its subsidiaries. The first chart about I.G. Farben and its subsidiaries only shows money invested by I.G. and its subsidiaries. It did not give a complete picture of the total financial involvement in the war preparation. This chart shows investments by the Reich and other subsidies given to I.G. which are not reflected in the chart previously discussed. They are broken down generally into three divisions, first Reich investments--and that is money which the Monte. and the Wehr and the other government officials put into these plants. And you see a total there of 3 billion 693 million marks. Then you will see credits given to I.G. in connection with various products: 719 million. Then you get different subsidies and further break-down. The point of this chart is to show that in addition to the money that I.G. itself put into these capital facilities there were other monies put into these capital facilities by government agencies, and we have attempted in order to give an over-all picture of the extent of this development to show what the other financial aid was that was given to I.G. Farben.

As Prosecution Exhibit 692 we offer NI-10016. It is an affidavit explaining the previous chart.

As Prosecution Exhibit 693 we offer NI-10011, another affidavit by Struss explaining this chart.

As Prosecution Exhibit 694, another affidavit by Hartmann explaining this chart.

And as Prosecution Exhibit 695, we offer NI-10022, again an affidavit explaining that chart.

As Prosecution Exhibit 696 we offer, NI-7327. It is an affidavit of Doncker, who was Chief of I.G. Farben's Bookkeeping Department, indicating generally the financing scheme of plants in the Four Year Plan.

At page 63, if Your Honors please, which is page 84 of the German book, in the paragraph numbered "I": "For purposes of Bookkeeping, the I. G. treated all new construction since 1933, which was undertaken for public offices or the branches of the Wehrmacht, either as contract plants or as Four Year Plants." And then in the next paragraphs he describes what the financing was under a contract plant and how it was dealt with under a Four Year Plan.

As Prosecution Exhibit 697 we offer NI-7242. It's an auditor's report, so to speak, on the examination of loans to I.G. made by the German Reich. This report was prepared for the American Control Council, and it is dated March 1947. It has, as usual, the accounting statistics and explanations, and there would be no purpose served in discussing this orally.

As Prosecution Exhibit 698 we offer NI-9193, an affidavit by Zeidelhack, junior director in the Army Ordnance, to the effect that I. G.'s production in the explosives and the gunpowder fields before 1939 was in excess of peace time needs.

With respect to (Exhibit) 698, NI-9193, the description in the Table of Contents of "junior director" is an error, and I suggest it be stricken.

Page 104, If Your Honor please, page 100 of the German book, under paragraph No. 2. Here is what an official in the Army Ordnance says: "The Munition administered, before the outbreak of war, in 1939, altogether 62 Army-owned projects. And then we go down to paragraph 3:

"Of the 62 Munition works, 25 were metal processing plants and 37 were chemical plants. Of the 37 chemical works, 36 were built and run by I.G., the I.G.,..." And the subsidiaries: "The capital of these 36 works, I estimate at 1.2 billion Reichsmark.

In Prosecution Exhibit 699 we offer NI-7427. It is copies of I.G. letters from the I.G. Legal Department at Frankfurt to the other I.G. legal departments, dated December 1939, setting up a central department in Frankfurt for contract clearance.

At page 107, If Your Honor please, 103 in the German, the first paragraph—"It has proved to be necessary to set up a central office at the undersigned's—that is in Frankfurt—"in order to facilitate a survey on the military economy plants, the establishment of which is being handled by the most diverse departments of I.G., and also particularly for the purpose of insuring uniform procedure in the legal handling of contracts to be concluded for such plants...."

"This central office will replace the Central Office for Contracts in Ludwigshafen for the aforementioned Military Economy contracts." I am calling attention to that paragraph; the new set-up will replace the Central Office for Contracts in Ludwigshafen....

That is where the Defendant von Knieriem was stationed and in charge of this Central Office before this reorganization in December 1939. And if Your Honor will note at the bottom of 107, "copies of this go to von Knieriem at Ludwigshafen." And of course Your Honor could note from the top that all of the legal departments got copies of this memorandum.

At page 108, the next page, the first paragraph, this is some discussion about military-economy plants.

"It is necessary, under all circumstances, to prevent Reich-owned plants, which have been established by us adjacent to our works, later on getting into the hands of third parties; and it is desirable for us to have the possibility of acquiring them at their value at the time of sale, should the Reich have no further interest in the plants."

At the next page, your Honors will note: "Copy went to defendant von Knieriem". The last paragraph is interesting. This is instruction to the lawyers of I.G. Farben. "Finally, the leasehold contracts must state that the plant may only be operated by I.G. or a subsidiary company designated by I.G. for this purpose, so that the possibility of the plant being passed on to third parties is eliminated."

NI-8594 is already in evidence as Exhibit 131. It is a report in April 1943 prepared by Geckel for Krauch, showing the effect of the over-all war effort which the bombing of I.G. Farben plants would have. There is detail in that report, of course. Its significance lies in the fact that it shows the importance of the plants indicated there in the production scheme and in supporting the military machine that was engaged in carrying on this aggressive war. This, if your Honors please, concludes Book XXXII relating to plant facilities and expansion.

We are prepared to proceed now with Book XXXVII. It might be helpful, if your Honors please, before proceeding with this book to indicate generally what the nature of the documents and proof in this book relate to. The last paragraph in the indictment relates to Count I/D, which is Paragraph Number 45. The first sentence: "Farben was the core of Germany's military mobilization, not only by virtue of its own production but by virtue of its strategic position in the German economy. All other German chemical

companies and numerous other German war industries were almost totally dependent on the products, resources, and technological aid of Farben." The proof which will be offered in connection with this book will go to support those charges; and in general they consist of affidavits and reports summarizing Farben's part in the mobilization of the industrial economy of Germany and also showing its importance and strategic position in this entire industrial mobilization.

As Prosecution Exhibit 700 we offer NI-9945.

DR. VON ROSPATT (for the Defendant Krauch): I ask the Tribunal to reject the acceptance of this affidavit and to tell the Prosecution to summon the affiant as a witness. As far as this question is concerned, the Tribunal has already made a statement, by the President, and I quote from Page 109 of the record: "If, for example, an affidavit contains a final report concerning statistical matters, it is proper to admit this affidavit for the sake of time; moreover, if it would be necessary for the cross examination, the Tribunal would have to procure the necessary witnesses. Otherwise there might be cases in which the affidavit more or less refers to the personal conduct and the personal knowledge of the affiant. Then it would be better if the affiant - in case he is available - instead of the affidavit, would be brought before the Tribunal personally, in order to be submitted to examination or cross examination."

Corresponding to these principles, the Tribunal has already ruled in the case of the interpreter Schmidt of the Foreign Office and has already refused the introduction of an affidavit and has told the Prosecution to call the affiant to the witness stand. In the case of the statements of Jeheimrat Kugler it is also a question of personal conduct

and personal knowledge of the attitude of the individual defendants and I.G. Farben. Therefore, the defense believed that according to the principles of submitting evidence and the procedure of the trial, it would be proper to call this witness, too. He is available and he should be called to the witness stand.

MR. SPRECHER: We have no objection to having this witness called to the witness stand; but we don't think that that bears on this question of the admissibility of this document. At the present time there are several other such affidavits. There are at least two affidavits by the affiant here, and certainly the Prosecution's position is, your Honor, that the document being admitted doesn't reduce not add to the right of cross examination or the right of further examination by the Prosecution concerning these points.

THE PRESIDENT: Does the Prosecution believe that it will be possible to produce this witness for cross examination at the proper time?

MR. SPRECHER: Yes, in the very near future.

THE PRESIDENT: Under the circumstances it is somewhat difficult to surmise how the Defense could be hurt by the introduction of this affidavit because you will have the double advantage of the personal cross examination and also being advised in advance by his affidavit of the subject-matter of his testimony. Would that not meet the situation, on the promise of the prosecution to produce the witness at the proper time for cross examination?

DR. VON ROSPATT: No, your Honor, this does not agree with our point. We think that without an affidavit having been submitted to this Tribunal the witness can describe facts better than it can be done by the submission

of an affidavit and the later examination during which the witness, through the fact that the affidavit has already been officially submitted to the Tribunal, would be tied down by his testimony. As in the case of the interpreter Schmidt of the Foreign Office the Tribunal has already decided not to accept the affidavit but to hear the witness in person, so we consider it especially important that the introduction of an affidavit should always precede the appearance of a witness.

THE PRESIDENT: The Tribunal has had no opportunity to familiarize itself in advance with the contents of this document, this affidavit. It does appear that the affiant undertakes to cover certain matters of which he had personal knowledge as a result of personal contacts. That is not true of the entire affidavit because he goes into a matter of policies, the source of his information not fully appearing. If counsel for the defense is laboring under the apprehension that an injury would be done to his client by this affidavit's being before the Tribunal, even if the witness is subsequently produced and cross-examined, I think I can assure him that the Tribunal would consider the facts from the standpoint of the affidavit in the light of the cross examination. It is difficult for us to see why the situation of the defense would not be better if the affidavit is offered, providing the witness is produced for cross-examination, because you are armed in advance with information as to what you may expect him to testify to and you are better prepared to cross examine him than if he was produced here and you had no idea of what his testimony might be. Doesn't that appeal to counsel as being a reasonable conclusion?

DR. VON ROSPATE: Yes, your Honor, absolutely. We

have seen that it is our advantage if we know beforehand, on the basis of the affidavit submitted, what the cross examination deals with. However, I'd like to emphasize once more that we have the impression that the witnesses are not as free in their testimony if they stand before the Tribunal without an affidavit as if an affidavit had already been submitted; and we would be very grateful if the Tribunal, perhaps during the recess, would confer about this matter as to whether in such cases where it is only a matter of personal knowledge it wouldn't be better for reasons of principles of the procedure if the witness would appear to be examined personally.

THE PRESIDENT: Conceding that a witness might testify more freely if he had never made an affidavit, the fact yet remains that it is now apparent that this gentleman has made an affidavit; and whether it is introduced in evidence or not, it is in the files of this Tribunal because the Prosecution has offered it into evidence and it is available for their use and yours whether it is received or not because it is a tendered exhibit. We can't erase the fact that this man has made an affidavit and it is available for the use of parties who might subsequently wish to examine him orally or cross examine him. But we will accede to counsel's request and consider this matter in the few moments at our intermission and make a final ruling when we reconvene after the morning recess.

DR. VON ROSPATT: One more remark, Your Honor. We believe that if the witness is called without an official introduction via the affidavit, he will not give the same testimony into the record as if the affidavit had already been officially submitted. Nevertheless, the affidavit could be given to the witness.

THE PRESIDENT: Now, Counsel, we don't want to extend this argument; but let's just analyze that situation a moment. Suppose this affidavit never had been offered by the prosecution but instead they bring him as a witness, put him on the stand, and they question him. Then you cross examine him and in the course of their examination or your cross examination you are taken somewhat by surprise and you have available this affidavit or they have available this affidavit, certainly it would be available for the purposes of the examination of this witness whether it was ever offered to this Tribunal or whether the Tribunal ever had any knowledge of the existence of the affidavit. I suggest those things to you to indicate that, as we are presently advised, it seems to me that you are in a more favorable position by this affidavit in the record than you could possibly be without its being in the record. However, we'll consider the matter at our morning recess and we'll rule when we reconvene.

Mr. Prosecutor, we'll have the understanding that the exhibit has been offered and we'll rule on its admission immediately after the morning recess.

MR. ANCHAN: With respect to the next affidavit, then may I suggest that NI-9994 be marked for identification as 701 and, that relating to the same matter that the defense brought up, we'll await the ruling.

THE PRESIDENT: Very well.

MR. ANCHAN: It is 9994 as Exhibit 701 for identification. As Exhibit 702 we offer NI-10,500, an affidavit of Dr. Lenz, former consultant in chemistry in the Reich Ministry of Economics, relating to Farben's dominance in the office of the Four Year Plan.

DR. VON ROSPATT: I ask that the objection which I just raised against the submission of the affidavit of Dr. Koerner also be made against the admission of the affidavit of Dr. Lenz. These are the same reasons. This is again not a matter of statistical facts but of personal impressions and opinions about the attitude of the defendant and the I.G's so that the defense is of the opinion also that in the case of the affiant Lenz it would give the Tribunal a more plastic impression if the witness would be in the stand rather than submit affidavits.

THE PRESIDENT: How many more of these affidavits, Doctor, do you have in mind challenging as they are disclosed by this index sheet?

DR. VON ROSPATT: Only the first three, Your Honor.

THE PRESIDENT: Very well. Then the understanding will be that they have been identified and offered in evidence by the prosecution; and whether they are to be admitted or not will be postponed until after the morning recess. The prosecution may continue with the next document.

MR. AMCHAN: NI-9656 is already in evidence as Prosecution Exhibit 682, an affidavit of Koerner, State Secretary in the Office of the Four Year Plan, to the effect that I. G. had the largest share in the expansion projects under the Four Year Plan. We had it a day or so ago; and there's not point in discussing it orally again. As Prosecution Exhibit 703 we offer NI-9272, an affidavit of Dr. Wagner, formerly of I. G. Vermittlungsstelle W, to the effect that I. G. production for listed commodities substantially exceeded peacetime needs.

On Page 9, if Your Honors please—this is Page 11 of the German book—your Honors will note the lists of certain important materials and after going through some figures at the bottom of the column, he concludes these figures alone already exceed Germany's peacetime requirements by as much as forty per cent. Then on the next page he discusses magnesium and goes into figures. At the following page he concludes with respect to magnesium. Thus, German peacetime requirements,

including amounts required for stock-piling for Wehrmacht purposes, were exceeded by almost a hundred per cent. He refers under Item 5 to stabilizers; and at the next page, 12, he concludes as to stabilizers. The capacities of the factories at the disposal of I. G. thus exceeded peacetime requirements by a hundred per cent.

As Prosecution Exhibit 704 we offer HI-7296. This is a report from the Reich Office of Economic Development. It comes from the Reich Office of Economic Development, rather; and it is monthly reports of the ordinance on the situation of the German war economy in September and December 1939. Page 13, if your Honors please--16 of the German book--this is from the office of a German official agency, September 1939. Under 1, "Mobilization, The mobilization of industry took place gradually controlled by the political situation. On 25 August the order for the secret mobilization of the Wehrmacht was issued", - 25 August 1939. "On 29 August the Economic Armaments Office for OKW issued to the branches of the Wehrmacht the order to prepare for the mobilization of industry and for the drawing up of an immediate production plan for the Wehrmacht."

Then the next paragraph: "With the commencement of mobilization, the primary task was the inclusion in the Wehrmacht production plan of the various armament programs and programs operating under the Four Year Plan." At the next page, if your Honors please, they set out in this report the new priority scheme for production to enable the military machine to carry on this aggressive war; and in order of priority, on Page 14, first, production of munitions, including conversion to production from substitute materials; 2, gun powder and explosives plan; going down to 5, the fuel program; 6, magnesium and buna, all Farben with high priorities.

Referring to Page 15, if your Honors please, which is page 19, under Item 4, this is the navy priority plan, Page 18, four lines down: "Above all, current munitions production was to be increased to the highest possible level and in particular conversion of munitions production to production from substitute materials still further promoted. In

connection with the production of munitions, the increase of the production of explosives was also urgent." Then you'll see a detailed listing again of the priority system for purposes of getting the navy in motion to carry on its aggressive warfare. Again you note the position of I. G. Farben's production.

As Prosecution Exhibit 705, we offer NI-9476, an affidavit of Dr. Mulert, former consultant for chemistry in the Reich Ministry of Economics, to the effect that I. G. was the backbone of German preparation for war. Page 17, if your Honors please, which is Page 20, under Paragraph Number 1, there you get the background of the affiant. "I was consultant for chemistry in the Reich Ministry of Economics from 1922 until the end of 1933 or 1934 and from 1938 until 1944. From 1934 until 1938 I was consultant for Mineral oil there. Next to the heavy industry I. G. may be considered the backbone of the German preparation for war, in the first place, on account of its own production and, in the second place, on account of its key position in the German economy."

NI-6235 is already in evidence as Exhibit 261. It is an affidavit of the defendant Buettelisch. We ask your Honors to turn to Page 19, 22 of the German, second paragraph: "On 28 or 29 August 1939 Dr. Christian Schneider"--That's the defendant Schneider--"received the plant leader of Leunawerk, received from the president of the government or from the commander of the military district, the order for mobilization of the plant." Then in the next paragraph, what they did. Two paragraphs down: "In 1935 and 1936 it was obvious that the aim of the National Socialist economic and military policy was to establish an as complete as possible state of self-sufficiency in Germany. Since the German march into Czechoslovakia," that is, in March 1939, "it was clear to me that the military economy would be aiming at development into an aggressive war. Without I. G. Farben, especially without the I. G. production in the fields of synthetic rubber, gasoline and magnesium, it would have been out of the question for Germany to carry on a war."

The defendant Bueteefisch.

NI-10,609 is already in evidence as Prosecution Exhibit 658.

It is a chart of I.G. and subsidiary share in total German production of strategic materials. Your Honors have already seen the chart and it requires no further oral discussion. As Prosecution 706 we offer NI-10,021. It is an affidavit of Dr. Struss, explaining the chart; and it requires no further elaboration.

THE PRESIDENT: Perhaps this would be an appropriate time for us to rise for our morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The Tribunal is now ready to rule on the admissibility of identified documents Nos. 700, 701 and 702, tendered by the Prosecution. We are not unmindful of the fact that early in the progress of the trial of this case the Tribunal made a ruling with respect to the admissibility of an affidavit that affords some basis for the position taken by the defense with respect to the documents now under consideration.

The Tribunal is willing to confess that it was not at that time as familiar with the established practice before these Tribunals regarding matters of that character, as it now feels that it is; it seems to be well established by the precedents of the International Military Tribunal, and these Tribunals, that affidavits are generally speaking admissible where a reasonable provision is made to provide the other side an opportunity of cross examination. So far as the prior ruling made early in the progress of this trial is concerned, I think the Tribunal might reach a different conclusion if it was again passing upon that matter, but, be that as it may, as to these exhibits now before the Tribunal, it is our view that the admission of these affidavits would not be calculated to deny the defendants a fair and impartial trial.

It has been represented to the Tribunal and to the defendants by the Prosecution that it is their intention to produce these affiants for cross examination. We shall rely upon that promise, as we think the defense is entitled to rely upon it. Certainly if these affiants are produced for cross examination, the defendants will be in a better position to protect their rights, than they would have been had there been no affidavit offered, and the witness had, in the first instance, been placed upon the stand, and the Prosecution required to proceed with cross examination at the conclusion of the examination in chief. That is to say, the Prosecution is advised in advance what it may probably expect the witness to testify to which is not the case when

the witness testifies in person from the witness box. Whether the affidavit is or is not admitted in evidence, it has been made, and with respect to that we have no control. It is in the hands of the Prosecution, it is available to the defense, whether introduced in evidence or not, I should say, because it has been offered, it makes it a part of the records of this proceedings.

To summarize, we realize our responsibility to see that these defendants receive a fair and impartial trial; that they have a reasonable opportunity to cross examine the witnesses, and, that only evidence of probative value is admitted as against them. Bearing these fundamentals in mind, it is our definite conclusion that the rights of the defendants are not injured by the acceptance of this affidavit in view of the well established practice by which the Tribunal is bound.

The objections to the introduction of the Exhibits Nos. 700, 701 and 702 are overruled, and the exhibits are admitted in evidence.

DR. ROSSBACH: An affidavit of Dr. Wagner has been submitted as Exhibit No. 703, after the witness had already been examined here in cross examination. The defense and the Prosecution together have agreed that since another affidavit of the same person has been introduced, and as the Prosecution has told me more affidavits are to be introduced, the defense, again, has the right to cross examine the affiant. I should be grateful to the President if he would confirm this right to be the opinion of the Tribunal as well.

MR. SPRECHER: May it please the Tribunal. The witness Wagner has given a considerable number of affidavits, and most of them have been introduced. Dr. Rossbach has stated probably our position concerning this case. The only thing I should like to relate in connection with his statement was the request for a ruling in general. I think a ruling in general in the same case could be ruling in vacuo, and there may be a case here where affidavits are introduced under Article III of Ordinance No. 7, where we are not in a position to furnish a witness for cross examination, and where cross interrogatories may

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have to suffice, and that some other arrangements will have to be made.
I hope I have not trespassed upon the Tribunal's time too much merely
to indicate this possibility where there was concerned a request for a
general ruling, because so far as Wagner is concerned, there is no
problem between us.

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to indicate this possibility where there was concerned a request for a
general ruling, because so far as Wagner is concerned, there is no
problem between us.

THE PRESIDENT: By that are we justified in assuming that is the intention of the prosecution to present Dr. Wagner for further cross examination?

MR. SPRECHER: It's intended to call him for further direct and then to offer him for cross examination as we did before, Your Honor, with Dr. Wagner in connection with I-B. It seemed to us that that was a very closely knit unit of affidavit and again, at the end of this current group, we feel that it would be again in order.

THE PRESIDENT: It seems that the statement of the prosecution would suffice so far as this problem is concerned. That is, that it is their intention, Doctor, to produce this witness so that he will be available for cross examination in due course.

Now, for us to go further and enter into the field as to at what stage he is to be produced or when made available for cross examination will get us into the territory which we were considering earlier this morning and we shall pass that until after Tuesday.

Is that satisfactory?

DR. ROEBACK: Yes, Your Honor.

THE PRESIDENT: Thank you.

MR. AMCHAN: Book 37, if Your Honors please.....

THE PRESIDENT: Mr. Prosecution, pardon one further interruption. It was not the intention of the Tribunal to deprive you of the privilege, if you so desire, to call our attention to any particular parts of Exhibits 700, 701 and 702, which have just now been received in evidence and if you wish, we will allow you to refer back to them and make your observations concerning them.

MR. AMCHAN: With respect to Prosecution Exhibit 700, NI9945, I gather from the discussion that Your Honors have read it completely and I will pass by any oral discussion as to that. I'll make the same observation with respect to Exhibit 701. I might very briefly refer to 702 and ask Your Honors to turn to page 5, which is page 7. The affiant states that:

"Dr. Hoffmann reportedly stated to me..."

That's towards the bottom of the page.

"...the Reich Ministry of Economics feared, in particular, that I.G. with the aid of Goering and the Wehrmacht offices, would be in a position, not only to frustrate the economic policies of the Reich Ministry of Economics but, over and above that, to project and carry out its own economic policies."

And I gather Your Honors have seen the balance of the affidavit.

As Prosecution Exhibit 707, we offer NI-7236. It's an affidavit of Dr. Struss referring to the dominant role of I. G. Farben in the chemical field. I think we have had sufficient proof on that point and the affidavit in and of itself will further demonstrate the fact we're proving.

NI-6123 is already in evidence as Exhibit 572. It's an unsigned note from I. G. Farben files, dated 23 April 1941, and Your Honors will recall that I discussed this in connection with rubber. I pointed out then that there was a recital in that document, as early as the Spring of 1939 - this unnamed official of I. G. Farben conferred with the local military to secure exemptions of personnel in the event of war, pointing out the importance of Farben in the war production effort.

As Prosecution Exhibit 708.... I'm sorry. 6763 is already in evidence as Prosecution Exhibit 12. 6763 is already in evidence as Exhibit 12. It's an address by the defendant von Schnitzler in February, 1943, at a reception given for the Spanish Ambassador. I ask Your Honors to please turn to page 33, which is page 41. Your Honors will note that a copy of this address went to the defendant Haefliger. The date-"on the occasion of the reception of the Spanish Ambassador, Dr. von Schnitzler made yesterday an address as attached."

And at the next page, 34, if Your Honor please, a little below the center of the page. 42 of the German.

"But not until wartime came was the German Chemistry able to stand the great test of its excellence. It is no exaggeration to say that without the accomplishments effected by German chemistry under the Four Year

Plan, modern warfare could not at all be possible."

I respectfully call Your Honors attention to the date of this again, 1943, and when Your Honor read the Schnitzler affidavit executed after the war you will see the same expression and the same thought conveyed. Significant, we think, when he makes this statement in 1943, when it appears that German victory is in sight, and making a similar statement after defeat. The point we think is quite significant as to the effect of the affidavits of the defendant von Schnitzler.

And at page 35, if Your Honors please, at the reception for the Spanish Ambassador:

"It is merely my desire to initiate you with a few introductory words in the subject of chemistry for which the approach is often difficult to a layman, and to give you by means of the samples displayed before you a slant of what German Chemistry is supplying today to the national economy and to that of the whole of Europe. Not only is it a presupposition for the waging of war in itself - of which not a single building - stone can be dispensed with in the happenings of war - but to a no lesser degree has it become a necessary part of the economic apparatus of all other continental countries. And especially in activities concerning foreign countries I. G. Farbenindustrie has from the beginning held a towering leader position in German industry."

NI-5196 is already in evidence as Exhibit 40. It's a Schnitzler affidavit, 16 March 1947. Schnitzler's affidavits, as you reread them after some of the primary proof is in, achieve added significance and added meaning and, for that reason, with Your Honors permission, certain excerpts, very brief, which are pertinent to this point.

At page 38, toward the bottom of the page, 47 of the German

"The I.G. by force had to follow the general development in Germany. Whatever government ruled Germany, the key position of the I.G. in the whole chemical field, undisputed since I.G.'s foundation in 1925, had to play and always played the decisive role in everything which was con-

connected with chemistry. I remember a remark Stresemann....."

That is Prime Ministry Stresemann during the 20's;

".....made to me in 1927: What have I as a trump in my hands apart of you, the I.G., and the coal people?"

"The policy of 'autarky' and 'Rearmament' was so closely interconnected with one another that it really represents unsurmountable difficulties to distinguish which element of both was the prevalent one.

"However it was I.G. very soon profited by it and whereas in 1932 I.G.'s total expenditure for new plants and equipments was, I think, only 10 to 12 million marks, in climbed in the years 1934 to 1936 rapidly and from thereon took a raging trend.

"The technical possibilities being involved in that trend had undoubtedly a great fascination upon our technical people. Plans for which they could not see any practical realization as long as a normal economy existed, became realizable and the most fascinating prospects seemed to lie in the future. That this development in the last must lead (1) to impoverishment, that means to a lowering of the standard of living, (2) to war, nobody did or wanted to realize."

And the next paragraph:

"The whole development of I.G. in the years beginning with 1934 and accelerated since the end of 1936 is entirely due to the close team-work with government and Wehrmacht."

And I might say that the defendant Schnitzler modifies this statement at page 40 and he modifies it in this respect. Page 59 of the German, at the bottom of the page, under (b), referring to the sentence I just read. Two years later, reflecting on it, von Schnitzler says:

"I would not say that this development is due to the development of chemistry in general, to autarky, to rearmament, and, finally, to the war itself."

And he makes the same qualification with another thing. Back to page 40, if Your Honors please, two paragraph below. That's the sixth paragraph on the page.

"Practically the whole augmentation in the turnover of I.G. from a little over 1 billion marks to 3 billion marks in 1943 is a 100% result of the rearmament and the war policy of the German government."

And, of course, he modifies that on page 50 to the extent that I have indicated.

And the following page, if Your Honors please, toward the middle of the page, which is page 50 of the German:

"In the last phase of the war following ideas of President Kehrl of the Reichswirtschaftsministerium, the organization of the 'Gewerbliche Wirtschaft' became entitled to act to a large extent as a decisive factor and in principle a corporative system was in full creation. The result for I.G. was - although I. G. men generally were not being put in the foreground, because President Kehrl was in strong opposition against I.G. - that the overwhelming technical position of I. G. made it the deciding factor.

"As an example I only may cite Dr. Wurster's activity....."

The defendant Wurster.

".....he indeed was put in the foreground - in the field of sulphur and sulphuric acid, who in fact ruled that important item of warfare chemistry with sovereignty. This system of corporative developments was neither invented nor in principle fostered by I.G. but the facts were stronger than Mr. Kehrl's ideas and the industrial potential of I.G. became bigger and bigger."

And then he concludes at page 41 at the bottom:

"Apart of this technical situation the development of I.G. during the last 12 years can't be separated from the Government's foreign policy."

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NI 5197, another Schnitzler affidavit, is already in evidence as Exhibit 18, and we refer very briefly to page 63, which is page 72 of the German, toward the bottom of the page, about five lines up:

"I.G., at the top of her activity, showed a turnover of three billion marks and their subsidiaries including D.A.G., had a turnover of another billion marks. Of this latter billion marks, of course half at least can be considered as typical armaments, business without importance for peace time."

At page 66, if Your Honors please, toward the bottom of the page, which is 74 of the German:

"However the I.G. had to make substantial investments for the Wehrmacht's needs and wanted to take the whole risk upon her own shoulders or was compelled to do so, then of course in the agreements, she always endeavored, and to the best of my knowledge, succeeded in getting the high amortizations necessary to write the factories off in the shortest possible time."

NI 8595, we offer as Exhibit 708. It's a list from the Reich Office for Economic Development on April 20, 1943, which shows the most important plants in Germany as of 1942. At page 104, which 112, as Your Honors run through this document rather rapidly you note, under "Plants of Prime Importance", the Farben plants with a percentage of productions and as you turn page after page it's the Farben plants and their production, and at page 108 you see a copy of this went to Krauch, and at 108 there's a break-down of plants, according to products, and the percentage of production, and with respect to the next exhibit, NI 8831, which we offer as 709.... It's another list showing percentage of production of each plant to the German total production, and it begins at page 113 and, if you turn to page 114, you again get the break-down of the plants according to product. This is a document from the files of one of the government agencies showing from their records what Farben's position was in this military production

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program.

NI 8594 is already in evidence as Exhibit 131. It's a report in April, 1943, prepared by Oeckel for Krauch, showing the effect the overall bombing would have on Farben plants. The point of this report again is to show the detailed importance of the particular plants in the war production and what affect it would have on the entire military machine if the itemized plants were destroyed partially or totally by bombing.

NI 10002 is already in evidence as Exhibit 132. It's a chart of the sales and gross profits of I.G. and the affidavit of Deichfischer is attached. At 120, if Your Honors please, in the chart, in the first column you get the total sales. If you begin with 1932, you see about 875 million. Then you note the accelerated increase of sales and as you hit 1937 you get 1,515 million and, as you hit 1938, you get 1,547 million and then you see a similar acceleration as you read the line below. The contrast which we make, of course, is what their position was before they began their alliance with Hitler and how that alliance profited them.

NI 1014 is already in evidence as Exhibit 133. It's an affidavit explaining the previous chart. That is NI 10014, Exhibit 133.

NI 10003 is already in evidence as Exhibit 134. It's a chart showing the net profit of I.G. I ask Your Honors to please turn to page 123. This is net profit. Under the first column, again 1932 - 47 million; 1936, they go up to 140 million, and they hit 191 million in 1938, and, during the war, it goes up and up. The same point we made with respect to the previous chart.

NI 10015 is already in evidence as Exhibit 135 and it explains the chart I just discussed.

As Prosecution Exhibit 710, we offer NI 10027. It's a graph prepared by Dr. Struss showing, in a visual fashion, the relationship between the turnover, the gross profit and the net profit. The same

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facts that the chart shows - the visual representation.

As Prosecution Exhibit 711, we offer NI 10005. Now, this is a chart of the sales and gross profit of Dynamite A.G. and its subsidiaries. The previous charts were I.G. Page 127, if Your Honors please, 136 of the German, under 1, the same thing: 1932, 34 million; 1936, 149 million; 1937, 200 million; 1938, 243 million, and right up the line.

As Prosecution Exhibit 712, we offer NI 10017, an affidavit explaining the previous chart.

As Exhibit 713, we offer NI 10006, a chart on the net profits of the D.A.G. and subsidiaries. It appears at page 130, if Your Honors please, and 139 of the German book. Again, if you take the same base of 1932, beginning with one million, you hit 1936, you get five million net profit, 1937 - 10 million, 12 million in 1938, and right up the line. Profits go up.

As Prosecution Exhibit 714, we offer NI 10018 which is an affidavit explaining the previous chart.

Now, as the last exhibit with respect to the sub-count of this Indictment I-D, we offer NI 3767 as Exhibit 715. That, if Your Honors please, are excerpts from a report of the United States Strategic Bombing Survey, dated 30 September 1945. Briefly, I would like to indicate certain points which to us are significant.

At page 152, which is 163 of the German, one-third from the bottom of the page:

"Ten particular chemicals, however, because of the amounts required or because of their basic nature, can be considered the most vital to Germany and are listed below in order of their wartime importance, as the Germans considered them:"

Your Honors will recognize these things from our previous discussions with respect to explosives etc.

"Nitrogen, Methanol."

Methanol, you will recall they produced 100% of the methanol."

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And at 153, if Your Honors please, which is 164 of the German, the second paragraph:

"All the large units producing nitrogen and 90 percent of methanol production were located in the synthetic oil plants. Leuna and Ludwigshafen-Oppau were the two most important plants accounting for 60 percent of nitrogen and 40 percent of methanol."

They're identifying the two main plants and not the total I.G. production.

"These two plants also produced 76 per cent of the country's ethyl chloride for tetraethyllead."

Just those two plants.

Page 133, if Your Honors please, which is 143 of the German. The opening paragraph of the U. S. Strategic Bombing Survey:

"After air superiority had been attained over Germany, the Allied Air Forces proceeded to exploit it in a series of heavy attacks which continued from the spring of 1944 to the end of the war. Measured in terms of results achieved, the two most important objectives were the German synthetic oil industry and the German transportation system. They were, in a sense, contrasting targets."

And then they develop the thought.

Page 135, if Your Honors please, which is 146 of the German book, toward the bottom of the page:

"Virtually all aviation gasoline production came from the hydrogenation plant, hydrogenation plant, and ten of the principal eighteen hydrogenation plants, including isooctane plants, produced eighty per cent of the total aviation gasoline production. The synthetic plants using the Fischer-Tropsch process did not make aviation fuel. After the defeat in front of Moscow in December 1941, when it first became apparent that the blitz-krieg war was turning into a war of attrition and that larger amounts of aviation fuel would be needed, attempts were made to expand output of existing hydrogenation plants." Then they refer to the attempts, the Heydebreck plant, the Auschwitz plant, and so on.

Page 137, if Your Honors please, which is 147, at the top of the page: "Technical integration of both hydrogenation and Fischer-Tropsch synthetic oil plants with the chemical industry made the synthetic oil industry a particularly important target, and the bombing of this industry and particularly Leuna and Ludwigshafen had more far-reaching effects than the mere loss of oil production. Bombing of synthetic oil plants dealt a crippling blow to the munitions and explosives industry and severely affected the synthetic rubber industry."

Finally, if Your Honors please, page 139, which is page 150, in the center of the page - at the bottom of 150 of the German book: "Plants that had been knocked out completely were brought back into production in relatively few weeks, thus necessitating renewed attacks. The history of Leuna in this respect is striking. Leuna not only was the largest hydrogenation plant in Germany but was also of great importance because of its production of nitrogen and other chemicals. It was the most heavily protected plant in Central Europe. The defenses were such that the plant was most difficult to hit. The first large-scale daylight attack came on May 12 by the 8th Air Force with 220 bombers with fighter escort, and the famous battle of Leuna began. Before the end of the war, Leuna was raided twenty-two times, twice by the RAF and twenty times by the Eighth. Due to the

urgency of keeping this plant out of production, some of these missions were dispatched in difficult bombing weather. Consequently, the order of bombing accuracy on Leuna was not high as compared with other targets. A total of 6,552 bombers attacked this target with 13,320 tons of bombs. The battle of Leuna was one of the major battles of the war and, "in spite of severe losses, the battle was won." This, then, if Your Honors please, we respectfully submit is the meaning of this array of cold statistics of figures of production and of investments, of charts and graphs; this, we say, is its meaning: "Our losses were severe, but the battle was won."

We are prepared, if Your Honors please, to proceed, if you desire, to Count 1/3 dealing with stock-piling.

THE PRESIDENT: Do you have some preliminary statement as to the objective of this proof that you might make before we recess for the lunch time, and then perhaps we can start on the exhibits proper after lunch?

THE SPEAKER: Miss Belle Mayer of the prosecution staff does have some introductory remarks.

MISS BELLE LAYEN: May it please the Tribunal, the documents which the prosecution is about to offer are contained in Document Books XXXVIII through XXXXI. These documents relate primarily to Paragraphs 46 through 49 of the Indictment, which is Section E of Count I. This section charged in substance that I.G. Farben and these defendants in preparation for and in the waging of aggressive war procured certain critical war materials from abroad, made available the foreign exchange required for their direct procurement by the Wehrmacht, and stock-piled both their own production and imports at the orders of the Wehrmacht and in some cases on their own initiative. I don't think that this is very important, but lest someone be misled, I should like to point out that the titles in these four index books are wrong. They should read as the title of Section E of the Indictment does, which says that Farben procured and stock-piled critical war materials for the

Fazi offensive.

In previous proofs, including the two preceding sections offered by Mr. Charnatz and Mr. Anchan, the prosecution has already shown how these defendants, together with the responsible officials of the government agencies, planned a great plant expansion, an expansion of productive facilities to prepare Germany for war. Nine of the documents which are collected in Document Book Number XXXVIII have already been offered in evidence; but they were collected here for the convenience of the Court. They all relate to expansion planning in the fields of fuels, including high octane or aviation gasoline and lubricating oil, and in the fields of rubber and magnesium and nickel. Although these nine documents do not set forth enough facts, we believe, to enable Your Honors to get a fair picture of the relationship between the production program and the stock-piling program. I should like merely with respect to these nine documents to indicate their exhibit numbers just in case the Tribunal wishes to refer to them again. Might we do that, Your Honor, before the recess?

THE PRESIDENT: Yes, certainly.

MISS MAYER: Document Number NI-6767 is the Prosecution's Exhibit Number 30. Document FI-6630 is the Prosecution's Exhibit 540. FI-0988, the Prosecution's Exhibit 524; FI-5931 is Exhibit 523; FI-7208 is 233; NI-6326 is 95; NI-7562 is 590; FI-9548 is 683; and NI-8840 is 448.

THE PRESIDENT: Is Counsel now ready to take up the introduction of the documents?

MISS MAYER: Yes, Your Honor.

THE PRESIDENT: Under the circumstances, the Tribunal will rise for the lunch recess until 1:30.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The Tribunal reconvened at 1330 hours, 26 Sept. 47)

THE MARSHAL: The Tribunal is again in session.

MISS MAYER: The first document which the Prosecution will offer is the last document in Document Book 38. This is Document No. EC-128, is set forth at page 94 of the English Document Book and page 124 of the German Document Book, and is offered as the Prosecution's Exhibit No. 716. This document is a report submitted by Schacht on 30 September 1934, indicating the status of what Schacht calls the "Economic preparations for war." I respectfully refer the Tribunal's attention to the fact that this document is discussed in detail at pages 83 through 85 of the Prosecution's opening. Here I would like to call attention to Schacht's comments on the urgency for stockpiling explosives and other critical materials, and his comments as to the success had up to that date, September 1934, in building up stockpiles. At Paragraph 9, which is in the center of Page 103 of the English document book, which is the second paragraph at Page 151 of the German document book, Schacht says as follows with respect to Pyrites: -

"Pyrites are the basic raw material of sulphuric acid, which is an indispensable chemical intermediate product. In Germany it can only be produced in the danger zone, Westphalia. The I. G. Farbenindustrie A.G. has been induced to complete the stockpiling of an additional amount of pyrites during this winter. Furthermore, the conversion of a large plant of this concern to the production of sulphuric acid from gypsum is going to bring considerable relief in this respect."

Schacht then goes on to discuss the importance of stockpiling

motor fuel. I would like to read on Page 104 of the English document book, Page 153 of the German, the second sentence in the second paragraph. Schacht says: "Among all the raw materials under consideration, motor-fuel furthermore holds a distinctive position because it needs to be immediately available for the conduct of war." He then goes on to discuss plans for the construction of storage tanks and an underground pipeline for the stocking of this fuel. He says, at the top of Page 105 of the English book, 155 of the German: "These storage tanks are to be ready for filling in spring 1935. From the point of view of air-raid protection they will provide an ideal and unique means of storage."

The Prosecution refers to next-to-the-last document in Document Book 36, which is NI-640, and which has already been offered in evidence as the prosecution's Exhibit 448. This document is set forth at Page 87 of the English Document Book, and Page 114 of the German Book. It is a letter from the Defendant Krauch, of 22 July 1936; to Under Secretary Fournier, Goering's deputy in the Four Year Plan; at Page 88 of the English document book, and Page 116 of the German Book -- this is the last paragraph on Page 88 of the English; it is the third paragraph on Page 116 of the German -- in this paragraph Schacht says that as far back as the end of 1936 "I repeatedly directed the attention of the Reichsamt" -- I beg your pardon, this is Krauch speaking. Krauch says that he "repeatedly directed the attention of the Reichsamt to the urgent necessity of stock-piling. Already at that time, for example, I requested that considerable quantities of Toluene (or toluol) be stocked up for existing explosive factories. Measures taken to increase the production of toluene had then for their result that the producers couldnot dispose of their products to the explosives factories, as the latter had no orders for manufacture, and finally the increased production had again to be cancelled, because their warehouses were over-full, as arrangements had not been made at the right time to provide tanks for stockpiling. The

same is true of diglycol" — which is for explosives — "and Oxol, as preliminary product for mustard gas, where the few plants that existed were only put to work for stockpiling on my insistence in March/April 1937, or, indeed, were only partly capable of producing at that time." And Krauch mentions the two Farben plants, Mannheim and Wolfen.

This concludes the documents in Document Book No. 38.

We turn to Document Book 39. The Defendant Krauch's statement that back in 1936 he had requested that immediate measures be taken to assure sufficient stockpiles, is substantiated by the first document in Document Book No. 39. The Prosecution offers, as its Exhibit 717, Document No. NI-7823, which is set forth at Page 1 of the English Document Book, and Page 1 of the German. This document is a letter from the Office for Raw Materials and Synthetics in the Four Year Plan, to the Ministry of War, to the Reich Air Ministry, and to the High Command of the Navy, requesting an immediate conference on the stockpiling of explosives, gunpowders, and other intermediate products for the manufacture of poison gas, and chemical warfare agents.

The Prosecution offers, as its Exhibit 718, Document No. NI-7848, which is set forth at Page 3 of the English document book, Page 5 of the German. In this document we again find the Defendant Krauch arguing for what he calls the assuring of mobilization provisioning by stockpiling. The document estimates the stock piles of certain products, including non-ferrous metals, pyrites, and rubber, which are necessary — and I quote the document — "for assuring first mobilization year" and those necessary — I quote — "for assuring the second mobilization year."

At Page 9 of the English document book, Page 17 of the German document book, in the last sentence of the next-to-the-last paragraph of the document, the following statement appears: "In determining the mobilization gaps, the most unfavorable case was assumed, namely, that Germany, in case of mobilization, has no imports whatever and is dependent only on its own production and on the supplies on hand."

The next document, EC-258, is offered as the Prosecution's Exhibit No. 719. It appears at Page 10 of the English document book and Page 19 of the German. This is another report by Schacht, the Plenipotentiary for the War Economy, showing the status of mobilization as of December, 1934. With regard to the subject with which we are immediately concerned, the Prosecution respectfully refers the Tribunal to only two paragraphs of this document. The first is set forth at the bottom of page 18 of the English document book, the bottom of page 32 of the German document book, and is entitled "Motor Fuel Economy". This paragraph again discusses the need for the construction of facilities for gasoline and fuel to cover the needs of the Wehrmacht.

The second paragraph is set forth at the bottom of Page 19 of the English document book, Page 34 of the German, and is entitled "Construction of Supply Boes", etc. Here reference is made to a corporation called "Wifo", which was engaged in the construction of storage tanks and pipe lines and also in the construction of plants mainly for the production of pyrites and nitric acid. The Prosecution will discuss "Wifo's stock-piling activities at a later point, but I should like to mention here that originally Wifo was owned by Farben and by the German Government, and, as appears from Chart No. 10039, which is already in evidence as the Prosecution's Exhibit No. 47, I. G. Farben operated the Wifo nitric acid plants and certain other plants.

We come now to a series of documents which show I. G. Farben's activities in procuring the specific products which were mentioned by the Reich officials in the documents just offered. The first product is nickel. The Prosecution offers WL-9549, which is the last document in this book and which appears at Page 115 of the English book and Page 159 of the German. This is offered as the Prosecution's Exhibit No. 720. This document is a report of a conference held at the I. G. Oppau plant with representatives of the Ministry of Economics on 16 August 16, 1935. The report was circulated to the Defendants Baefliger, Krauch, and Gattineau. As appears from the bottom of

Page 115 of the English book, 160 of the German, the Ministry of Economics requested three things of Farben: requested that they transfer the Oppau plant from the West to Central Germany, that they attempt to produce two thousand tons of nickel a year, and that they stockpile as large a supply of nickel ore in Germany as possible. Farben's representatives informed the Ministry of Economics that they would do everything possible in order to obtain larger allocations of nickel from the International Nickel Company, which is sometimes referred to as "Inco/Nonde", and which company held a monopoly on eighty-five percent of the world's supply of nickel.

The Prosecution offers, as its Exhibit 721, Document No. NI-7563, which is set forth at Page 33 of the English book and Page 62 of the German. This is a secret report circulated to the Defendant Brauch, to the Vermittlungsstelle W, and to other Farben officials, which the Prosecution offers to show the importance of nickel to General Thomas's Wehrwirtschaftsstab, the Military Economics Office, and to show his reliance on I. G. Farben in procuring that nickel.

The Prosecution offers Document No. NI-4921 as its Exhibit 722. This document is set forth at Page 35 of the English book, Page 66 of the German. This document is a report entitled "The Problem of Germany's Nickel Supply", which was circulated by the Defendant von Insterich in September, 1936, to Farben officials and to the Vermittlungsstelle W, requesting that office to send some copies of the report to the Reich War Ministry and to the Defendant Krauch. The report itself surveys the needs of Germany for nickel and analyzes the necessary steps which are required to fulfill those needs.

At Page 39 of the English document book, which is Page 71 of the German, and at Paragraph VI, the following statement appears:

"In the discussions held on 28 April 1936 I. G. explained to the International Nickel Company the special difficulties of supplying Germany and stressed the necessity of accumulating bigger stocks than hitherto. The International Nickel Company showed full understanding

of I.G. wishes and proposed that during the next five years a stock of 5,000 tons of nickel be established in Germany and administered according to the contract obligations and paid for in accordance with the regulations of the contract. Here the I.G. has done some preparatory work along the lines of the Reich War Ministry's wishes."

As is indicated by the next few documents, Farben was successful in its efforts to procure the 5,000 tons.

The Prosecution offers, as its Exhibit 723, Document No. NL-10389, which is set forth at Page 47, I think it is, of the English document book.

JUDGE MORRIS: Page 42 of my book.

MISS MAYHE: Thank you, Your Honor. Which is set forth at Page 42 of the English document book and Page 75 of the German. This document is an agreement of 4 May 1937 between the Mond Nickel Company, a British company, and I. G. Farben, modifying and supplementing their earliest agreement of 1 January 1934, and enabling Farben to import into Germany increased quantities of nickel.

The Prosecution offers Document No. NL-7564 as its Exhibit 724. This is set forth at Page 46 of the English document book and Page 79 of the German document book. The document is the minutes of a conference held at Ludwigshafen on 5 April 1939, with the Defendant Haefliger attending, and at which discussions took place with respect to I. G. Farben's foreign exchange arrangements for the procurement of this nickel and for the procurement of molybdenum, which is a metal necessary for armor plate and tungsten.

The Prosecution offers, as its Exhibit No. 725, Document No. NL-9636, which is set forth at Page 47 of the English document book and Page 83 of the German. This document is a memorandum by the Defendant Haefliger, written in October, 1939, in which the Defendant Haefliger reviews the history of Farben's associations with the International Nickel Company, or "Inco/Mond". The document is introduced for the purpose of summarizing how, by virtue of these relations, I. G.

was able to obtain the nickel supplies requested by the Reich Plenipotentiary for War.

I should like to quote this partial summary, which is set forth at the document book, Haeffliger says:

"~~The~~ eight-year contract which was concluded in 1934 has had very favorable effects upon German economy. It was the first time that the trust had been compelled to break with the principle of supplying nickel metal only—that means finished products—and to put sufficient quantities of Canadian nickel concentrate—or nickel ore—at the disposal of I. G. to meet more than half of the German requirements while saving fifty percent foreign exchange. Beyond that, I. G. succeeded in persuading the trust to store a very considerable supply of nickel ore in Germany at its own expense for the benefit of I. G.

"Up to the last days before the outbreak of war the attitude of the trust was decidedly loyal. No attempts were, for instance, made, nor steps taken to eliminate the risk, to the tune of several million marks, involved in storing such quantities.

"I have examined the events mentioned above in order to show that it would seem to be the policy of the trust to refrain as far as possible from doing anything which might prejudice future collaboration on the termination of hostilities."

The Prosecution offers, as its Document No. 726, Document No. NI-9638, which is found at Page 51 of the English book, Page 80 of the German. This document is a circular letter of 17 January 1940 from the Vermittlungsstelle to Schlecht, who was at I. G.'s Ludwigshafen-Opau plant, and the letter is on I. G. supplying Wigo with nickel. In the document nickel is described as outright war stocks.

The next document, NI-9639, is offered as the Prosecution's Exhibit 727. It is set forth at Page 54 of the English document book, Page 94 of the German book. In this document Schlecht, of the Ludwigshafen-Opau plant, writes to the Defendant Haeffliger and sends

a copy to the Defendant Wurster, objecting to the acquisition by the Metallgesellschaft A. G. of Wifo nickel, and also objecting to the representations made by the Metallgesellschaft to Wifo. The document is offered because it describes, and I quote, "the enormous efforts of I. G. in the field of procuring nickel for Germany," and indicates that whereas the International Nickel Company had been prepared to offer I. G. three hundred tons of nickel a year, Farben had been able to obtain forty-five hundred tons.

In order to complete the nickel story here, the Prosecution would like to offer in evidence at this point the first document in Document Book No. 40. This is No. NL-9637, and it is offered as the Prosecution's Exhibit No. 728. It appears at Page 1 of Book 40, English and German. This document is a report prepared by Schlecht of the Oppau plant on a conference held on 28 March 1940, at the foreign office in Berlin. The conference was attended by the Defendant Haefliger, and copies of the report on the conference were circulated to the Defendants Krauch and Wurster. This report shows that the Petsamo nickel mine in Finland was an extremely rich source of nickel supply for Europe, and that the International Nickel Company owned the Petsamo mining company. The purpose of Farben's conference at the Foreign Office, as appears from this document, was to announce to the Foreign Office in 1940 its disavowal of the contract with the International Nickel Company and to request certain measures of the Foreign Office.

The Court respectfully referred to Paragraph IV at the bottom of Page 5 of the English book, Page 6 of the German book, in which Farben tells the Foreign Office as follows. I quote:

"Apart from Russian nickel ore deposits already opened up, the mining of which is at present still insufficient to meet Russia's own requirements, the said Petsamo deposits are the only ones from which Germany can obtain adequate quality nickel raw material (or nickel ore) in sufficient quantities. Therefore, it is of the utmost

importance that strong pressure be brought to bear on the Finnish Government to insure that the nickel ore already extracted and to be extracted in Petsamo be held exclusively at the disposal of the Finnish Government, so that the latter will be able to supply Germany with nickel raw material."

Then they say in next-to-the-last paragraph of Page 6 of the English book, Page 9 of the German book:

"However, I. G. desires to make it clear that its present contractual relations with International Nickel must on no account stand in the way of measures which may be deemed expedient for the safeguarding of the German nickel ore supply from Petsamo ore."

The Prosecution turns back to Document Book No 39. We come now to the second specific product mentioned, molybdenum. The Prosecution offers, as its Exhibit No. 789, Document No. NI-10388, which is found at Page 57 of the English document book and Page 98 of the German document book. This document is an extract from a memorandum prepared by a Farben official on 10 May, 1939, of his discussion with a Dr. Gahn of the German Steel Works, and the conference is with respect to the procuring and stockpiling of molybdenum in Germany. We believe the document is self-explanatory.

The second document on molybdenum is NI-9640, which the Prosecution offers as Exhibit No. 730 and which appears at Page 59 of the English book, Page 101 of the German. This document is an application by I. G. Farben to Goering for permission to increase its prices of molybdenum. In explaining the merits of their request, Farben states, at the bottom of Page 61 of the English document book, Page 105 of the German:

"In view of the great importance of these steel-refining metals—that is, various forms of molybdenum—to the military economy, care was constantly taken, not only to keep a fairly large stock of molybdenum ore, but over and above that, about 2,200 tons of molybdenum ore was brought in during June 1939, with the agreement of the Reich Ministry of Economics, or rather the Reich Office for

Iron and Steel, thus securing the supply of steel alloys up until a short while ago.

"When the molybdenum ore stocks for metallurgical purposes at the Weisweiler and Bitterfeld plants were exhausted, production had to be stopped for the time being. For some years, however, there had been stored at Bitterfeld about 1,000 tons of molybdenum, which was originally intended for chemical purposes. On the orders of the Reich Ministry of Economics, a total of 435 tons was allocated by the Reichsstollé for Iron and Steel to the Weisweiler and Bitterfeld plants," etc.

The next product is arsenic. The Prosecution merely refers to Document No. NI 7135, which is already in evidence as Exhibit No. 267, which is set forth at Page 74 of the English book and Page 120 of the German. This is an extract of resolutions adopted at a meeting of the Economic Group for Chemistry which was held on 15 September 1939, and in Paragraph 15 the meeting notes that I. G. Farben has been charged with procuring arsenic for urgent Wehrmacht requirements through her foreign connections.

The Prosecution offers, as its Exhibit 731, NI-4690, which is set forth at Page 79 of the English book and Page 127 of the German. This document is an interrogation of the Defendant von Knieriem, says that in 1936 or 1937 Farben at the request of the Government procured- they were asked to procure some twenty million dollars worth of aviation gasoline from the Standard Oil Company for stockpiling at that time. Actually, according to von Knieriem, only fourteen million dollars worth was delivered. The Prosecution has previously shown — — —

Yes, go ahead.

DR. SILCHER: Dr. Silcher.

Mr. President.....

THE PRESIDENT: Pardon me, would you mind, Counsel, stating for whom you speak, for the record?

MR. SILCHER: For the Defendant Dr. von Kierien.

Mr. President, I believe the discussion and the decision of the Tribunal of this morning about the question of procuring affiants for examination and for cross-examination makes it necessary, in the next instance where an affidavit of one of the defendants is to be introduced, to clarify the question what the procedure is to be in such cases. I believe this is a special case as opposed to ordinary witnesses. If I am informed correctly, according to the rules of procedure which are used here, a defendant cannot be forced to testify. If that is correct, it would mean that if he submits affidavits, then he cannot be examined or cross-examined against his will.

I do not see how these two facts can be reconciled, namely that on the one hand affidavits of defendants are submitted in writing and therefore the possibility arises of examining and cross examining the defendant, and on the other hand that the defendants cannot be forced to testify.

For this reason I must object to the submission of this affidavit as the first such case.

THE PRESIDENT: We have been well over this territory. The Tribunal does not feel that it needs any further discussion of the matter. We have held, and shall hold, of course, that no defendant may be required to take the witness box and testify against his own interests or testify for any purpose over his objection. But that rule is quite separate and apart from another rule, and that is that any voluntary statement made by a defendant pertinent to the matter under inquiry, regardless of its form, whether it be a letter, a document, an affidavit, an interrogation, or whether it even be a signed instrument, if otherwise pertinent, is admissible as an admission.

Now, the only possible inquiry that the Tribunal would be authorized to conduct, under the well-established procedure as it applies to this interrogation, would be as to whether or not this statement was voluntarily made or whether it is the result of threats, coercion, or intimidation. As we have indicated before, if such a charge should be made, the burden of proof would be definitely upon the defendant to establish that the statement ought not to be admitted because it was never voluntarily or freely given. And unless Counsel desires to present that collateral issue, the view of the Tribunal is definite, that the form of the document is immaterial and that the document is admissible as a statement of the defendant, without regard to the matter of whether a defendant may be required to testify or desire to testify.

The objection is overruled, unless Counsel desires to pursue the matter further by charging the fact that this alleged interrogation is the result of coercion, restraint, threats, or such other circumstances

as would take it out of the category of a voluntary statement.

DR. SILCHER (Counsel for von Krierem): No, Mr. President, that is not the case. I am not objecting for those reasons, but I must make the reservation that for personal reasons I have not yet been able to discuss this question with my client, for as far as I am informed generally such an objection is not applicable.

If I understood your decision correctly, Mr. President, that means that affidavits of the defendants can be accepted as evidence even if defendants, according to the other existing principle, cannot be forced to testify, which principle would make it impossible for the Defense to cross-examine the witness. In such a case one depends on his free will, whether he wants to testify in cross-examination or not.

THE PRESIDENT: The answer to that question is very simple. There is no issue here of a defendant being required to give testimony against himself. That well-established principle applies to the right of a defendant to take, or not to take, that witness box. He, and he alone, can determine that, or his counsel. He cannot be compelled to take that box and give testimony against himself. But that rule has nothing whatsoever to do with the admissibility in evidence of any voluntary statement, in whatever form made, whether by interrogation, affidavit, letter, or otherwise, if the statement was freely and voluntarily made when it was made, and if it is pertinent to the issue which this Tribunal must determine.

Now, we have been over that territory many times. I think resort to the Record will indicate that the Tribunal has on a number of occasions expressed itself with that view. We are thoroughly convinced that the principle is sound and that it is in accord with the law in every jurisdiction that recognizes the right of a defendant to refuse to testify against himself.

Dr. Dix, I believe, wishes to speak.

DR. HEINZELER (Counsel for the Defendant Wurster):

THE PRESIDENT: I beg Counsel's pardon for getting his name wrong. I called you "Dr. Dix." I am sorry.

DR. HEINZELER: I understand the decision of the Tribunal that testimony of a defendant is admitted as an admission insofar as it concerns the establishing of the guilt or innocence of this defendant. If a defendant testifies, however, about another co-defendant

THE PRESIDENT: Will Counsel pardon an interruption? Perhaps it isn't true to say that the testimony of a defendant, but evidence of what a defendant may have said is admissible against him. When you speak of testimony, technically we refer to his testimony from the witness stand. He cannot be compelled to testify from the witness stand. But testimony -- if you mean by that a statement that he may have made, even though it be in the form of an affidavit or an interrogation--is admissible against him as a voluntary statement.

Will you pardon the interruption?

DR. HEINZELER: I should like to correct myself and clarify this matter and confine myself only to an affidavit. I understand that the Tribunal admits the affidavit of a defendant if it concerns the question of guilt or innocence of this defendant. But if in an affidavit a defendant deals with matters which incriminate a co-defendant, I believe that an alternative must be given. Either a possibility must be created to cross-examine the defendant who has made the affidavit, about the points to which he has testified which concerns his co-defendant if such a possibility is not given, then I believe a defendant's affidavit cannot be admitted as evidence against a co-defendant, for otherwise the rights of this co-defendant would be infringed upon, the same rights which the High Tribunal stated this morning.

If, contrary to the information which I have received so far, it is possible to cross-examine a defendant against his will about statements which he has made about a co-defendant; then I should like to correct myself and withdraw my objection. However, if I am correct in my assumption

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that such a cross examination is not admissible, then I believe that the affidavit of a defendant in regard to matters dealing with co-defendants should be inadmissible.

THE PRESIDENT: The question last discussed is not presently troublesome. We have reached no place where this Tribunal is yet called upon to determine what the scope of cross-examination may be when the voluntary affidavit of one defendant has been introduced in evidence as it may apply to the rights of some other defendant. In other words, I fear that Counsel is anticipating trouble that we have not yet quite reached.

The only matter that the Tribunal is now passing upon is the admissibility of the affidavit now being offered by the Prosecution. Counsel will have ample opportunity, when we come to the matter of a cross-examining witnesses with respect to affidavits, to then present his views as to his rights to cross-examine as to the document which is about to be offered.

We may further observe that the question of who is bound by an affidavit of a defendant, whether it is to be considered as evidence against his co-defendants or evidence only against the defendant who made the affidavit, is quite a different subject, and can be considered later.

The question is met here if this affidavit now being offered is proper proof against any defendant, including the defendant who made the affidavit, and in due time we can consider the question of the rights as to cross-examination as it applies to this affidavit and how far this evidence is competent against any other person than the person who made the affidavit.

Counsel may proceed.

LESS MAYER: The Prosecution has already shown how Farbon, during the years in question, 1936 and 1937, already had several plants underway for the manufacture of synthetic products, but, according to von Knieriem, and I quote: "These hydrogenation plants took a long time to build, and to bridge over this time they"—meaning the government—"wanted to have a stock of supplies." The gasoline was purchased—

THE PRESIDENT: Counsel, will you please repeat your German references. Perhaps that is the trouble.

MISS MAYER: I quoted from the bottom of Page 127 of the German, and it is just one sentence, beginning "But these hydrogenation plants"... Gasoline was purchased by Farben. And again, according to the Defendant von Knieriem—and I now read from Page 80 of the English document book, top of Page 128 of the German—"I.O. handled the business, paid cash, and got the cash back from the government without any profits or losses."

The Prosecution offers, as its Exhibit 732, NI-4922, which is set forth at Page 93 of the English document book and at Page 136 of the German book. This document is a whole series of letters, memoranda, and a contract relating to Farben's procurement, at Goering's request, of 500 tons of tetraethyl lead which, if added to ordinary gasoline, gives aviation or high-octane gasoline. The Prosecution will, at a later point, offer expert testimony as to how much gasoline can be made from a given quantity of this lead.

Without going through each of these documents, I would like merely to indicate briefly the nature of the transaction.

In 1938, before Germany had begun to produce tetraethyl lead, Farben, at the request of the Air Ministry, arranged to borrow this amount from the Ethyl Export Corporation of the United States. In a memorandum which was written by Henze, of Farben's Central Finance Administration in Berlin—this is set forth at Page 98 of the English book and Page 103 of the German book—according to this memorandum—and I read from the beginning of the document..... It is Page 143? Page 143 of the German.

"The Reich Air Ministry has the desire to store in Germany 500 tons of tetraethyl lead until such time as the plant which is to be built in Germany is able to cover the demand. Tetraethyl lead is added to aviation fuel in order to increase the efficiency of the engines."

"At the request of the Reich Air Ministry, Ludwigshafen started negotiations with Ethyl Export Corporation, with the result that this company is willing to lend Ethyl G.m.b.H. the amount of 500 tons of tetraethyl lead. The borrowed amount is to be returned by the end of 1939. We based our request to Ethyl Export Corporation on the fact that the addition of tetraethyl lead to automobile gasoline depends on a sufficient reserve of tetraethyl lead in Germany."

This so-called loan was secured by the deposit of a million dollars collateral by Farben's Swiss banking firm, Goutert. At the expiration date of the contract, which was in December 1939, Farben did not, of course, return the loan, and the collateral was forfeited.

I should like to note in this connection that this collateral was deposited in New York despite a memorandum of Farben's financial administration, which is set forth at the bottom of Page 107 of the English document book and Page 152 of the German document book, in which Goutert, the banker, points out that in case of war between Germany and the United States the money deposited by him would be in danger of confiscation.

The Prosecution offers, as its Exhibit 733, Document No. NI-4831, which is affidavit by Henze regarding the aforementioned lead transaction, which is set forth at Page 113 of the English document book and Page 157 of the German document book. This affidavit is introduced for the purpose of showing the importance which Goering attached to the immediate acquisition of this lead.

This concludes the documents in Document Book No. 39, with the exception of four documents on foreign exchange, which I should like to present at a later point in connection with other documents on Farben's foreign exchange contributions.

The next document, Document Book No. 40, is NI-8979, which appears at Page 8 of the English book and Page 11 of the German. This is offered as the Prosecution's Exhibit No 734. This is another

affidavit by Hans Wagner. It is dated 16 June 1947. And in this affidavit Wagner explains the manner in which the stockpiling orders were issued and the method whereby the stockpiles were financed. It appears, Your Honors, that two sentences of this English stencil are completely illegible, and I would like to read them into the record, if I may.

The first appears towards the bottom of Page 8 of the English book, the third paragraph from the bottom. This is Page 12 of the German.

This should read: "Whenever the I.G. Farben industrie A.G. undertook stockpiling for the Wehrmacht, the latter in the beginning always required that the I.G. Farben industrie store up these goods themselves and only charged them to the Wehrmacht on demand. The I.G. Farbenindustrie A.G., however, successfully declined to do this...." and so forth.

The second sentence appears on Page 9 of the English book and Page 13, bottom of the Page 13, of the German book. The sentence is Paragraph "5, ad 1. (c)" and reads—should read: "Clay and bauxite respectively were laid in by the I.G. Farbenindustrie A.G. before the outbreak of war....."

THE PRESIDENT: Just a moment, Counsel. I believe the translators are having some difficulty.

MISS HAYER: Can you find it? (To Interpreter) Have you looked on Page 13, at the very last sentence on the page? It should begin "Caolin..." The German should be "Caolin", I think. Do you have it now?

"Clay and bauxite respectively were laid in by the I.G. Farbenindustrie A.G. before the outbreak of war in an emergency depot in Leverkusen."

These sentences were not read because the Prosecution wants to call particular attention to them, but just because they can't be read.

In this affidavit, Wagner divides the stockpiling into three

groups: The stockpiles that were ordered by the Economic Group Chemistry and the Reich Office for Chemistry; that which was carried on by Farben on its own initiative; and that which was stockpiled at the orders of the Army, Luftwaffe, and the Navy.

Under his section on stockpiling at the orders of the Army, Air Ministry, and Navy, which is on Page 10 of the English book, and Page 15—it begins at Page 15 of the German book, Wager lists 16 products, most of which were stockpiled before the war for the Army, Navy, and Air Ministry.

The Prosecution offers, as its Exhibit 735, NI-10538, an affidavit by Dickmann, of 4 September 1947, which is set forth on page 13 of the English Document Book, page 19 of the German. This affidavit is introduced for the purpose of showing the methods of storage by I.G. Farben.

The next eight documents consist of a series of letters between I.G. Farben officials and the Ministry of Economics with respect to the necessary stocks which I.G. Farben was required to maintain to sustain its own production in the event of war. The first of these is NI-8363. The Prosecution offers, as its Exhibit 736, NI-8363, which is at Page 27 of the English Document Book and page 32 of the German. This is a letter of 2 November 1938 from the Vermittlungsstelle to the Hoechst plant, regarding the stockpiling measures which must be taken to comply with the requests and prescriptions of the Ministry of Economics.

The Prosecution offers as its Exhibit 737, NI-8367, which appears at page 30 of the English Book, page 38 of the German, and which is another letter on the same subject matter.

The Prosecution offers, as its Exhibit No. 738, Document No. NI-8365, which is a letter from the Vermittlungsstelle to Hoechst, of 10 November 1938, again on the same subject matter. This document is found at page 34 of the English Book, page 44 of the German.

The Prosecution offers, as its Exhibit 739, Document No. NI-8366, which is listed on the second page of the index of this book, and is found at page 37 of the English document book and page 50 of the German. This is, generally, on the same subject matter as the previous three documents, complying with the prescriptions of the Ministry of Economics and the Wehrmacht.

The Prosecution offers, as its Exhibit No. 740, NI-7211, which is listed towards the bottom of page 3 of the index to the document book. NI-7211 is found at Page 97 of the English book and page 123 of the German.

This is a letter of 1 February 1937 from the Reich Chamber of Industry and Commerce for the Rhine Main Region to Hoechst.

JUDGE MORRIS: My index is 1939, or else I have the wrong letter.

1 February 1939.

MISS MAYER: It is 1939. I beg your pardon, Your Honor. Did I say 1937?

JUDGE MORRIS: Yes.

MISS MAYER: It is 1939.

This letter concerns the stocking of sufficient coal for the Farben plants in the event of war.

The next two documents which are listed right below NI-7211 indicate the food supplies which the Farben plants were required to lay in in case of war. The Prosecution refers to the Prosecution's exhibit No. 257, which is NI-7210, and the Prosecution offers, as its Exhibit 741, Document No. NI-7209, which is set forth at Page 103 of the English Document Book and page 131 of the German. While these documents are self-explanatory, I would like to indicate that they received an extremely wide circulation throughout the Farben plants, and that they were circulated to most of the defendants here.

Returning to the first page of the index, the Prosecution offers Document No. NI-8364 as its Exhibit No. 742. This document is found at Page 21 of the English document book and page 26 of the German document book. It is a letter from the Vermittlungsstelle to the Hoechst plant, enclosing a letter from Ungewitter, the Reich Plenipotentiary for Chemistry and the head of the Economic Group for Chemistry, in which Ungewitter orders the I.G. Farben plant to stockpile immediately the materials necessary to execute the mobilization plans for a specified period. The letter is dated 12 August 1939. While it does not add particularly to the stocks required to keep I.G. Farben themselves going, it indicates the beginning of putting the mobilization plan into actual

operation.

The documents which we have offered so far have shown the stocks which I.G. Farben required to sustain their own wartime production and the materials which Farben procured from abroad for the Wehrmacht.

We come now to Farben's stockpiling of its own production at the orders of the Wehrmacht. The Prosecution offers, as its Exhibit 743, Document NI-8368, which is found at page 36 of the English book and page 49 of the German. This is an intra-plant memorandum of 10 November 1938, with reference to the storage of ammonia and concentrated nitric acid.

The Prosecution offers as its Exhibit 744, Document No. NI-4832, which is found at page 42 of the English book and page 54 of the German. This is an affidavit by Ernst Struss, of 14 March 1947, and I should like to quote one paragraph from the affidavit on magnesium and one on stabilizers. Paragraph 3 at the bottom of page 42 of the English document book, page 55 of the German Book, states:

"On order of the Air Force, a new large magnesium plant was planned at Aken on the Elbe, probably as early as the end of 1933. Shortly thereafter a second one at Stassfurt. Shortly after the start of production in Aken, probably in the summer of 1935, I visited Aken as well as Bitterfeld and noticed that without doubt practically the entire production of magnesium was stored there in the form of tubes and packed into cases. These tubes had a diameter of 8 centimeters, a 1-cm wall and a length of 20 cm. Without doubt these tubes were parts for incendiary bombs. They were packed into standardized boxes and were called "Textile cases". Everybody laughed whenever somebody spoke about, or mentioned, "Textile cases". The meaning was common knowledge" — and so forth.

Paragraph 7, which is at the top of Page 44 of the English document book, page 57 of the German document book, reads as follows with res-

pect to stabilizers:

"Since 1936 we had orders from the Wehrmacht to store stabilizers for it, especially to build up stores of Centralite. This was the best stabilizer produced and, therefore, the one used most extensively. In comparison to consumption during the war, the quantities in storage were insignificant; and I do not know whether the storing was done at the I.G.'s initiative, or by the Wehrmacht. I do not know whether I.G. stored the stabilizers in 1936, 1937 and 1938, in their original form, or in the form of finished product. During those three years approximately 5,000 tons of stabilizers were placed in storage. However, I am not sure of the exact quantity."

The next document, NI-1148, is offered as the Prosecution's exhibit No. 745. It is set forth at Page 46 of the English document book and page 59 of the German book. This document consists of a series of three conferences held by Neukirch, of I.G. Farben, and they are memoranda of conferences held with the Army Ordnance Office, and they are all with the Army Ordnance Office officials on the stockpiling of new incendiary shells and chemicals for incendiary shells. At the second conference, which is set forth at page 47 of the English book and page 62 of the German Neukirch discussed with the Army engineers the stockpiling of what he calls "B 1 El", which are incendiary shells, and he states — second paragraph:

"I then touched upon the question of new orders of B 1 El, whereupon Spoerl — an Army engineer — stated that, after all, the present stockpiling would be sufficient for the beginning, also for 'Case-A'." It goes on:

"In 'Case A' the existing capacity for shell filling would be just sufficient for supply it fully used."

And then the next-to-the-last statement says:

"For the meantime, the stockpiling of tubes and rods is intended; the arrangements made so far should be sufficient, too. But no definite decision has been taken in this respect."

And the third conference, which is described in a memorandum of 20 January 1937, and which appears at page 48 of the English Book, page 61 of the German, refers to the stockpiling of chemicals for the filling of KBT, which the Prosecution believes are incendiary bombs.

THE PRESIDENT: Counsel, have you finished with that exhibit?

MISS MAYER: Yes, Your Honor.

THE PRESIDENT: Then we will rise for our recess.

(A recess was taken.)

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THE MARSHAL: The Tribunal is again in session.

THE PROSECUTOR: The Prosecution offers Document No. NI-6152, which is listed in the middle of the second page of the index in Document Book No. 40, and the Prosecution offers this document as its Exhibit No. 746. The document is set forth at page 49 of the English Book, and page 64 of the German Book. This is an affidavit by one Karl von Heider, of March 14, 1947, on the stockpiling of aluminum, phosphorus and cyanides, and we believe it is self-explanatory.

The Prosecution now refers to Document No. NI-4492, in evidence as Exhibit No. 116, which is set forth at page 51 of the English Document Book, and page 67 of the German Book. The document is a memo for the files on a conference held on 20 January 1937 between representatives of I.G. Farben and the Army Ordnance Office. At this conference the needs for storage of diglycol and other chemical products were discussed. Paragraph 4 on page 51 of the English, and page 67 of the German, notes that the defendant Ambros was requested by the Army Ordnance people to survey the demand for diglycol and storage facilities for stocking it.

The Prosecution offers as its Exhibit 747 Document No. NI-7566, which appears at page 53 of the English Book, and page 69 of the German book. This is a letter dated October 31, 1935, from the Ammoniakwerk at Merseburg, to the Reich War Ministry and the supreme commander of the Wehrmacht, on the construction and installation of a bomb proof gasoline storage tank. The second paragraph on page 55 of the English Book, and page 71 of the German book, states: "Your apprehensions about the loading and unloading facilities being too much exposed to attack and destruction by enemy airplanes, can be overcome by shifting the loading and unloading of trains, at least during the time of actual

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danger, to adits 1 and 2. The trains would be pushed by the engine into the adits, and coupled there to a spilling system, so that the engine does not enter the adit. Details of this can be given in a verbal discussion."

The next three documents, Nos. NI-7125, 7121 and 7124, which are in evidence as Exhibits 231, 230 and 232, respectively, are referred to at this particular point for the purpose of showing the measures required by the Government to safeguard stockpiles of strategic products located in danger zones.

The next document NI-7129, is offered by the Prosecution as its Exhibit 748, it appears at page 75 of the English Document Book and page 97 of the German Book.

THE PRESIDENT: Pardon me, I believe you are in error on the page. We have it as 82 in the English.

MISS MAYER: I beg your pardon, Your Honor, that is correct. It is 82 of the English and 108 of the German Book. This is the letter to the High Command of the Army from the Reich Minister of Economics again with respect to moving stockpiles of I.G. Farben products from the west to central Germany.

The Prosecution offers as its Exhibit 749 Document No. NI-8843. It is set forth at page 85 of the English Book, and page 111 of the German. This document represents a series of letters among I.G. Farben's officials, including the defendant Wurster, with respect to storing of diglycols, and it also contains a series of reports starting in 1934 to the Army Ordnance Office on the amount of pyrites held in storage by I.G. Farben at the request of the Wehrmacht.

Document No. NI-6728, is offered as Prosecution Exhibit No. 750. It is set forth at page 94 of the English Document Book and page 117 of the German Book. This document is the

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Minutes of a meeting of the Technical Committee of the I.G. Farben Vorstand, held on 13 February 1939, at which the question of stockpiling of "mobilization dyestuffs" was discussed.

This concludes the documents in Document Book No. 40.

THE PRESIDENT: Just a moment, counsel. I believe we have the last document, NI-8596, indexed on the bottom of page 3. Do you find it?

MIS. LAYER: Yes, oh yes, thank you, Your Honor. I overlooked it. Prosecution offers as its Exhibit No. 751 Document No. NI-8596, which is an affidavit by Hans Wagner again, regarding the activities of WIFO. It is dated June 7, 1947, and it is set forth at page 108 of the English Document Book, and page 135 of the German Book. In this affidavit Wagner indicates that the WIFO was founded about 1934, to assure the German supply of nitric acid, methanol, aviation gasoline, and hydrogen peroxide. He says that I.G. was a partner in the founding of WIFO, and paid their share through the provision of a site at Doeberitz. Wagner's affidavit is substantiated by the first document in Document Book No. 41, which is the actual 1934 agreement that established WIFL. The document is EC-25, and it is offered as the Prosecution's Exhibit 752. Unfortunately, the first page of the English stencil contains more German almost than it does English, I would like to explain what some of the German terms are. In paragraph one of the Agreement the contracting parties other than I.G. Farben are the German Corporation for Public Works, A.G. of Berlin, and then in Article I of the agreement, at the bottom of page one of the English Document Book---This is, I might say, just a correction of the English stencil, and I don't think it will effect the defense counsel. The first

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sentence of Article I talks about forming a Gesellschaft, and so forth, that is a corporation with limited liability, and the corporation which the German Organization for Public Works, and I.G. Farben are going to found is the WIFO, that should read "Wirtschaftliche" in the German, and it is the economic research association on WIFO. Aside from that we believe the agreement is self-explanatory.

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The next document EC-24 is offered as the Prosecutions Exhibit No. 753. EC-24 which appears at page 5 of the English Document Book, and page 11 of the German Book. It is merely a letter from the Economic Minister to the German High Command enclosing the rules of procedure of the Aufsichtsrat of the WIFO.

Document No. NI-6347 is offered as Prosecution's Exhibit No. 754. It appears at page 8 of the English Book, and page 15 of the German Book. This is a contract of the 26 November 1935, between the "German Bau- & Bodenkredit-bank" transferring I.G.'s share of stock of WIFO to that bank. I might mention here that I.G. Farben, of course, did continue to operate the WIFO plants, depots, and warehouses. To this point we have only discussed I.G.'s connection with WIFO in regard to the storing of aviation gasoline. We come now to three documents which discuss their construction of facilities for the storing of other essential materials.

The first document is NI-7131, which is offered as Prosecution's Exhibit No. 755, which is set forth at page 10 of the English Document Book, and it appears at page 18 of the German Book. This discusses their storage of Aethyl chloride and ammonia.

DR. BACHMANN: (for the defendant Ilgner) I would like to come back for a moment to Exhibit No. 752. In the German text on page 1 the chairman of WIFO is named Ilgner, spelled with one "L", from the exhibit No. 753, which I have with me in a photostat, it can be gathered that the name "Ilgner" is to be written with two "LL's". I merely mention it to avoid creating an impression that this would have anything to do with the defendant Dr. Ilgner.

MISS MAYER: If the Tribunal please, the enclosure which

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we are discussing, it bears the name of "Ilger" which was not included in the English Document Book, and I don't think this is included in the exhibit. Yes, now, that is in the German Book, but does not appear in the English. Now, may I see the exhibit, please? We concede this is not the defendant Max Ilger.

THE PRESIDENT: Very well, that settles the question.

MR. LEA: The prosecution offers as its Exhibit No. 756, Document No. GE-9476, which is set forth at page-- I'll have to change this. This document has already been introduced in evidence as our Exhibit No. 671. It appears at page 12 of the English Book, and page 21 of the German Book, and merely it is an affidavit by Bulert, of the Reich Ministry of Economics, of 11 August 1947, which merely indicated I.I.P.O.'s activities in the field of sulphuric acid and hydrochloric acid.

The next document is NI 7120. The prosecution offers it as its Exhibit 756. It's set forth at page 13 of the English book and page 23 of the German. It's the same as the preceding two documents with the exception that it discusses the stock pile of Urea.

We come now to the closing documents which are a collection of documents indicating I.G. Farben's services to the Wehrmacht and the German government in making available the foreign required by Germany for imports from abroad and also their services in activating and increasing German exports generally. I should like to go back to Document Book #39, starting at the bottom of page 2 of the listing of exhibits at the beginning of the book, there are four documents on foreign exchange. The prosecution offers as its Exhibit #757, NI 7120.

I beg your pardon, NI- 9775, which is set forth at page 65 of the English document book and 109 of the German book. This document is an excerpt from a publication, which excerpt is entitled: "Meeting of the German Chemical Association or Chemical Society."

In the second paragraph of this document, one of the participants at the meeting undercross the fact that the German chemical industry accounts for 50% of Germany's foreign exchange.

The prosecution offers, as Exhibit 758, Document #NI 8084 which is set forth at page 67 of the English book, page 111 of the German. This is an affidavit by Lothar Mischke, who worked in the government's supervisory office for chemistry, and it is dated April 18, 1947. I should like to read the first three sentences in the second paragraph of this document which is found towards the top of page 67 of the English book, page 111, of the German:

"I have always regarded the I.G. Farben Konzern as the attempt of a certain circle of persons to acquire its own economic sovereign power and with its aid to exercise also political influence. For this reason, after 1933, the I.G. Farben Konzern placed its economic facilities in the most generous manner at the disposal of the Nazis.

For example: Any difficulty in currency exchange experienced by a ~~Gorman foreign~~ representative could, with very little difficulty, be overcome through the currently competent I.G. Farben representatives."

DR. HEINZELER (Defense Counsel for defendant Wurster): After the fundamental explanations of the Tribunal this morning, the admissibility of this affidavit depends on the preliminary question of whether Dr. Lothar Mischke can be made available by the prosecution for cross examination or not. I therefore first ask that this question be clarified by asking the prosecution about it. If Dr. Mischke cannot come here because he's far away, I am forced in the interest of my client who is absent, to object to the submission of this affidavit.

MR. PSRECHER: Your Honors, I hadn't understood the ruling this morning to be so broad, so vast and sweeping as Dr. Heinzeler just indicated, and, therefore, in the absence of any direction from the Tribunal, I merely would like to state what our position is with respect to this witness rather than have any further discussion on this point.

We do not know as of the moment how quickly the affiant Mischke could be brought here, but we can endeavor to find out. We feel that under article VII of Ordinance #7 we have the right to introduce this affidavit, and this is the typical kind of question which, if all the defense counsel could get together concerning the witness problems and discuss them with me we would be able to make our arrangements in a very short time, I'm rather certain. But it has been rather difficult to do that in this particular case, the matter never having been brought to our attention before, we are in a difficult position. We haven't tested before whether the witness Mischke is available or not.

THE PRESIDENT: The matter of the availability of this witness is, of course, on the agenda for Tuesday morning along with the whole problem of dealing with that subject. I take it that counsel for the

the prosecution will advise counsel for the defense, as soon as possible, as to the prospects of producing this witness for cross examination. Of course, if that should present a problem, then we will have to deal with it at that time. It would not affect, it seems to us, the admissibility of the affidavit in evidence although it may be a subject to which we shall have to return at a later time to determine what must be done in the light of what the facts may be as to the availability of the witness.

MISS HAYER: The prosecution offers as its exhibit 759, Document NI 10679, which is set forth at page 69 of the English book and page 114 of the German book. This document is a couple of charts by Frank Fahle who was supervisor of the Berlin NW 7 financial office, indicating the amounts of foreign currency

No, I would like that latter remark from the record. This is an affidavit by Frank Fahle which does not include charts, but which describes I.G. Farben's foreign exchange contributions. In paragraph 2 of the affidavit, which is set forth at the center of page 69 of the English book and page 114 of the German document book, Frank Fahle states:

"By reason of the strong foreign exchange position which the I.G. had in foreign business and the international connections which it possessed, it was a matter of course that the I.G. should be asked by the Government for assistance in the most varied cases, as there was no other firm in Germany which possessed such far-reaching international connections and sources of foreign exchange."

The last sentence at the bottom of the English page 69, top of page 115 of the German book, reads:

"At the instance of the Reichsbank and other Government offices, the I.G. used its position in the international credit system in order to obtain foreign loans for Reich aims."

Frank Fahle goes on to show how Farben made available - specific

examples of where Farben made available both the foreign currency itself and foreign credits to the Reichsbank and also indicates in paragraph 5, page 70 of the English, page 116 of the German, that in a number of cases Farben even sold below cost to get foreign exchange for the German Government. Paragraph 5 reads:

"In a number of cases, business in the export markets was undertaken at a loss, in close contact with the consultants of the Reich Ministry of Economy, in order to raise the foreign exchange resources of the Reich. I remember particularly such losses in the field of dyes and heavy chemicals. I do not remember the total amount of such losses by the I.G. in such transactions."

The next document, NI 5882, is offered as the prosecution's exhibit #760. This is a minute of meeting of the Vorstand. It's a minute of the meeting of the technical management of the Hoechst plant held, on the 25th of May, 1936, with the defendants Lautenschlaeger and Jachno present, which discussed I.G. Farben's privileged position under the German foreign exchange controls.

This concludes the documents collected in Book #39 and I respectfully refer the Tribunal back to Book #41.

The prosecution offers as its exhibit 761, Document #NI 708, which is a letter from Schacht to the defendant von Schnitzler, which is set forth at page 25 of the English book and page 41 of the German. In it Schacht thanks the defendant von Schnitzler for having placed at the disposal of the German Gold Discount Bank his special knowledge in the field of export matters and foreign exchange.

The next document, # NI 1570, is offered as Exhibit 762. It's set forth at page 26 of the English book and page 44 of the German. This document consists of a report prepared by the defendant Ilgner which is titled "The promotion of exports within the frame of the Four Year Plan, based on experiences derived from export promotion practice and on observation in foreign markets. "This report was transmitted by Ilgner to the Under Secretary of State, Reich Chancellor Lammers, in April, 1937.

In his letter of transmittal, which starts at the bottom of page 26 of the English document book and page 42 of the German document book, Ilgner says to Lammers, and I quote:

"Because some time ago you showed a special interest for my East-Asia Report, I am taking the liberty of transmitting to you enclosed a written presentation of facts on the promotion of exports within the framework of the Four Year Plan. I have prepared this presentation in pursuance of thorough discussions with the chairman of the Commercial Policy Committee of the National Economic Chamber, Under Secretary of State Dr. Trendelenburg. This was prompted by his suggestion to make a presentation as to how the experiences and energies of private economy could be more effectively used for a methodical cooperation in the efforts of strengthening Germany's foreign trade position."

I do not intend to discuss the report itself and the suggestions made by Ilgner in it at this time because I believe that its going to be discussed subsequently in the proofs presented under Section C of the Indictment, but I would like to point out that Ilgner did not just discuss this program with this chairman of a committee of the National Economic Chamber, but discussed measures to increase and activate German's export position with all of the defendants who, during this same year, 1937, became members of Farben's Commercial Committee, namely, the defendants Mann, Schnitzler, Kugler, Haefliger.

The prosecution offers as Exhibit 763, Document #W15728, which is found at page 57 of the English book and page 105 of the German book. This is a minute of a meeting of the department heads of the Berlin NW-7 office. It was held on the 17th of August 1937 and the Defendants Ilgner and Gittineau attended. Reference is made to paragraph III, 4, on page 59 of the English book and page 109 - the top of 109 of the German book. This paragraph states:

"The Foreign Trade Branch of the Office of the Four Year Plan has urged I. G. to suggest possible measures for increasing exports, in particular, measures which become effective in the shortest possible time,

in order to alleviate the German raw material and food situation. A provisional draft was discussed. It is to be gone over once more and then presented to the Commercial Committee for approval."

These measures, I might add, were additional to those already submitted by Ilgner to Lammers.

The next document, NI 653, has already been offered in evidence as Exhibit #361. This is a letter from the defendant von Schnitzler to Bosch regarding the establishment of the Commercial Committee of I. G. Farben in 1937. The document appears at page 62 of the English book and page 113 of the German book. As the main purpose for the establishment of the Commercial Committee, von Schnitzler gives the acuteness of Germany's foreign exchange position and the need for raising German export and he says that the situation - I am referring to the third paragraph of the document - is not only acute so far as private business is concerned, but in connection with the execution of the Four Year Plan it should take priority.

The next document, NI 4927, has already been offered in evidence as Exhibit #362. It is referred to at this time merely to show that at the first meeting of the Commercial Committee, held in Berlin on the 20th of August, 1937, measures were discussed for complying with the request of the Trade Branch of the Office of the Four Year Plan, which had requested Farben's suggestions on foreign exchange. The defendants von Schnitzler, Haeffliger, Ilgner, Kugler and Mann were present at this meeting.

The prosecution offers as its Exhibit 764, Document NI 5726, which appears at page 69 of the English book and page 125 of the German. This is another meeting of the Berlin NW-7 office at which the activation of Germany's exports is again discussed. The defendants Ilgner and Gattineau were present at the conference.

Document NI 5742 is offered as Exhibit 765. It's another minute of a meeting among the Berlin NW-7 officials and appears at page 75 of the English book and 133 of the German book. At this meeting, the German

delegation had requested I. G. to find out what further exports could be exported to Argentina to offset Germany's imports from Argentina and alleviate Germany's trade deficit with that country.

The prosecution offers as Exhibit 766, Document #NI 4930 which is set forth at page 79 of the English book and page 139 of the German. This is an affidavit by Felix Ehsann of March 13, 1947, in which he discusses the special position enjoyed by Farben under the German exchange controls and the special privileges accorded Farben by the Reichsbank and Ministry of Economics.

Document NI 10546 is offered as the prosecution's exhibit #767. It's found at page 81 of the English book and page 140 of the German book. It's an affidavit of the 23rd of July, 1947, by Frank Fahle, attached to which are a couple of charts showing the amounts of foreign exchange made available to the Reichsbank by Farben during the years 1932 through 1949.

Document #NI 4453 is offered as the prosecution's exhibit #768. It appears at page 84 of the English book and page 142 of the German book.

Your Honors, it has just been called to my attention that the charts which are supposed to be attached to Frank Fahle's affidavit were not set forth in the German document books, if this is representative of all the books. Accordingly, I will voluntarily withdraw this affidavit from evidence, but would like to retain the identification number 767.

THE PRESIDENT: May be inquire of German counsel if it would be satisfactory to allow the documents to stand in evidence and the exhibit admitted, subject, however, to whatever objection you may wish to make after you have examined the charts. Then if you find them satisfactory, it will not be necessary to disturb the record.

DR. ROSPATT (Defense Counsel for the defendant Krauch): Yes, that is agreeable to us.

MISS MAYER: Thank you, Your Honor. The prosecution will undertake to see to it that they get copies of these charts immediately.

THE PRESIDENT: Very well.

MISS MAYER: I believe that I have already offered NI 4453 in evidence as Exhibit 768. This document, which is found at page 84 of the English book and page 142 of the German, was found in the file of the Commercial Committee and sets forth specific examples of how Farben facilitated the acquisition of foreign exchange and the procurement of supplies for the government.

This concludes, I believe, all of the documents in Books 38 through 41.

MR. SPRECHER: Mr. President, the Prosecution is prepared at this time to clear up several points which have been outstanding in the record for some time, if that is agreeable to the Tribunal.

THE PRESIDENT: This will be a very appropriate time, it seems to us, to do that.

MR. SPRECHER: Your Honors, the Secretary has just handed up to you English translations of VI-5899, which was identified as Prosecution Exhibit 430. There was nothing wrong with the German at the time. There was only an incomplete English translation, and therefore we have now finished the translation insofar as that is necessary; and the Defense may check that against the old Exhibit if they so choose.

We would like now to reoffer this Document VI-5899 in evidence as Prosecution Exhibit 430, the proper translation now having been afforded.

THE PRESIDENT: Can Counsel tell us in what book, and between what pages, that belongs, to facilitate the placing of it in our own files?

MR. SPRECHER: Yes, your Honor. That was in Book 30, Page 27, of the English Document book. I don't have the reference to the German but the German copy was all right at the time. The Exhibit is 430.

THE PRESIDENT: Thank you.

MR. SPRECHER: Your Honors will recall that with respect to Prosecution Exhibit 443, the manuscript of General Thomas concerning basic facts in the history of German war and armament economy, that is VI-2353, in evidence as Prosecution Exhibit 443, Dr. Helte requested that a translation of an accompanying affidavit which was made by General Thomas before he died should be translated and given to the Court. This, then, Your Honors, is the translation, in full, of the statement by General Thomas. May I call your Honor's attention only to the third paragraph, where General Thomas states:

"The factual observations and information contained in my

manuscript are accurate to my best knowledge and belief. They are based on the official files and on my personal files resulting from my official activity. The pencil notes and corrections in the original manuscript were written by me."

Now, Dr. Nolte had previously called your attention to the last paragraph, and I don't think I need underline that at the present time. I would only say that it seems completely clear to us that General Thomas draws a distinction between facts with respect to the rearmament, and remarks which he made concerning Nazi personalities in order to keep on the good side of the Nazis. I think it is a fairly plain distinction, and I don't think that actually Dr. Nolte intended to indicate more.

THE PRESIDENT: Now you can be helpful by suggesting, if possible, the book and the page where this document belongs.

MR. SPRECHER: Your Honors, that also is in the Book 20, at Page 117, and I would suggest that this merely follow after that document in your document books.

Your Honors requested that a copy of the chart that was placed in front of the courtroom in connection with the presentation of the documents in Document Book 11 be given an exhibit number. I indicated to you at that time that reproduction, because of the color problem, in large numbers would be rather difficult, but the administration did produce a total of five documents. I have given one copy to the Defense, which I trust they can hang in a common room, and I should like to give the larger copy to the Secretary to mark as Prosecution Exhibit 769. I have three extra copies, one for each of Your Honors.

I should state that the Defense and the Prosecution are still negotiating with respect to some possible changes in that chart, but there has not been too much progress to date concerning some of the details.

I should have given, along with that, the key to the chart, which is in both the English and the German language. I made a remark, at the time the chart was on the wall, that the key to the chart was not

completely correct, with respect to the yellow. I was in error at that time. The legend to the chart is correct, and the key to the chart is correct.

May that be marked right in with the Exhibit?

Prosecution Exhibit 304 for identification, Your Honors, was a certification concerning Hans Eugler. At the time it was offered, it was Document No. NI-9754. Question was raised concerning the German copy only. We have closely checked the reproduction that has just been handed out, with the original, and we believe it is completely correct. The exhibit number was Prosecution Exhibit 304.

THE PRESIDENT: Now can you tell us where that is located?

MR. SPRECHER: Yes, it is in Book 11, Page 121. However, your Honors, of course you usually don't get a copy in the English. I can't give you at the moment the German, but it will be in that small Document Book 11, concerning the defendant Eugler.

I should then like to reoffer Prosecution Exhibit 304, the deficiency having been made up.

THE PRESIDENT: The Exhibit will be received in evidence, subject to objection, if there may be such, from the Defense.

MR. SPRECHER: Similarly, with respect to NI-9757, which was marked as Prosecution Exhibit 291 -- that appears in Document Book 11 also, at Page 48 of the English -- similarly, with respect to that document there were certain errors in the reproduction in the German language. We have made an errata sheet, which we herewith submit in order to correct the errors in transcription. We should now like to reoffer Prosecution Exhibit 291 for identification in evidence.

THE PRESIDENT: The Prosecution's Exhibit 291 is now admitted in evidence.

MR. SPRECHER: I think that is all for the time being. Thank you very much, Your Honors.

THE PRESIDENT: Does the Prosecution have anything to say with reference to its program for next week?

MR. SPEECHER: Provided that Judge Merrell is back on Tuesday morning, we should like to go forward with the expert witness, Mr. Elias. In connection with his testimony, I would suggest that at least some of the defense counsel, and some of the defendants, bring into court with them the documents which were introduced in connection with Subsection D and E of Count One. In other words, all the books going back to the beginning of D. Now, there won't be reference to very many of these documents, and I think by exchange among Defense Counsel they can avoid bringing in the whole pile of document books; and the Prosecution would be prepared to go on by Tuesday with Count G, Subsection G of Count One, in case Judge Merrell cannot return by that time, unless we are misled as to the status of the document books. However, as I indicated to Your Honors and to the Defense, before, we had planned on having a number of witnesses this next week, and, therefore, the difficulties concerning the witness program have somewhat taken the Prosecution by surprise.

THE PRESIDENT: According to the information that the Tribunal now had, we think we can look forward to Judge Merrell being back on the bench on Tuesday morning. However, his absence is due to circumstances that might change, and in any event we think it would be well for the Prosecution to proceed along the lines indicated.

Is there anything else?

MR. SPEECHER: There is just one point, Your Honors. Defense Counsel just asked me the numbers of the volumes, since they did not recall the first volume under Count One, Section D. The volumes begin with 26 and run through 37 on Count I D. And on Count I E they run from 38 through 41. The only alternative, Your Honors, to this would be for us to make new document books merely for the witness Elias, which I am sure would cause you to have notes, and still more document books than you already have, and I think you already have probably appreciated the problem in that connection; and I think that applies to defense counsel as well.

THE PRESIDENT: Has Counsel for the Defense anything to say to the Tribunal before we recess until Tuesday morning? If not, the Tribunal will be in recess until next Tuesday morning at nine-thirty o'clock.

THE MARSHAL: The Tribunal will be in recess until nine-thirty o'clock Tuesday morning.

(The Tribunal adjourned until 0930 hours, 30 September 1947).

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Sept. 30-Oct. 3, 1947

NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 5**

TRANSCRIPTS
(English)

30 September - 3 October 1947 pp. 1340-1698

Official Transcript of the American Military Tribunal VI in the Matter of the United States of America against Karl Krauch et al, defendants, sitting at Nurnberg, Germany on 30 September, 0930, Justice Shake Presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI. Military Tribunal VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants in the box?

THE MARSHAL: May it please your Honor, all defendants are present in the Courtroom with the exception of Wurster, due to illness.

DR. VON METZLER: Dr. von Metzler.

THE PRESIDENT: For the record will you state who you represent, doctor.

DR. VON METZLER: Dr. von Metzler, counsel for the defendant Paul Haeffliger. I am making the statements in the name of the entire defense. Your Honors, according to the order of the Tribunal, the defense is now making its reply to the statements made by the prosecution regarding cross examination of affiants. That has also been laid down in a memorandum. This short summary of the point-of-view of the defense has been handed to the Secretary-General this morning, both in the German and in the English language. A second copy has been handed to the prosecution. Your Honors, I should like to permit myself to elaborate somewhat upon this very concise point-of-view of the defense and give reasons for it in order to eliminate every misunderstanding as to the attitude and motives of the defense in this question. Let me begin.

THE PRESIDENT: Counsel, please. The Tribunal has already indicated that it has heard all the argument it cares to hear on this matter. This is not a substantive matter. It's purely a procedural subject. We requested counsel for the prosecution and the defense to submit to us succinctly and simply a direct statement of what you thought the ruling of the Tribunal ought to be with respect to this matter of the cross examination of authors of affidavits that have been or may be offered

by the prosecution in the course of this trial. The President received on his desk this morning the prosecution's statement which is more or less a reiteration of what was said in Open Court the other day when this matter was presented. There has now been handed to us the statement of the defense which we have not yet had an opportunity to study. It is apparent to the Tribunal, however, that both the prosecution and the defense have not comprehended what the Tribunal desired. We do not think that this matter is one that calls for any more argument. We have simply asked the prosecution and the defense to give us directly a statement in the form of what the prosecution and the defense thought this ruling ought to be. We can frankly say that the presentation that has been filed by the parties does not serve that purpose, but it would appear to be a waste of time and effort to discuss the matter further in the Courtroom. We shall have a conference at eleven o'clock and either formulate an announcement of what the practice will be or call on counsel once more and again to furnish us with what we requested which was simply a statement of the form of the ruling that you expect. It is very clear that you did not anticipate, either of you, that this Tribunal would make a ruling on the documents that you have presented. You would be very much disappointed if we should so rule in a form of that kind. In any event, we are not disposed this morning to spend any more time on this subject until we have had an opportunity to examine the statements that have been filed by the prosecution and the defense. I am sorry, doctor, but that's the order of the Tribunal. The prosecution may continue with the presentation of its evidence.

MR. DUBOIS: The prosecution would now like to call Nathaniel Elies to the stand to testify.

THE PRESIDENT: May I inquire of the prosecution as to the nationality of this witness.

MR. DUBOIS: An American citizen.

THE PRESIDENT: Very well. The Marshal will escort the witness to the stand.

NATHANIEL ELIAS, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will stand, raise his right hand and say I and state his name.

THE WITNESS: I, Nathaniel M. Elias.

THE PRESIDENT: The witness will now repeat after me. I swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth. So help me God.

(The witness repeated the oath.)

You may be seated. The prosecution may proceed.

MR. DUBOIS:

Q. Mr. Elias, where do you reside?

A. New York City.

Q. Mr. Elias, what is your profession?

A. I am a chemical engineer.

Q. Will you briefly tell us something about your education and experience?

A. I graduated from an elementary school in Colchester, Connecticut, from high school in New York City, and studied at Columbia University where I received the degree of chemical engineer in 1915.

Q. Upon receipt of your degree from Columbia University, did you enter into any business?

A. I was employed immediately in the laboratory of Thomas A. Edison and worked for him two years. My work at that time, which was during the last war, was largely on the synthesis of phenol from benzol.

Q. After leaving Mr. Edison, what did you do?

A. After I left Mr. Edison, I worked in the coal-tar dyestuff industry with the DuPont Company for several years and later with several other organic companies. My work was on the development of synthetic products useful in the manufacture of dyestuffs, intermediates, and wetting agents. After that I did general consulting work and established my own laboratory which has been in existence ever since.

Q. How long have you been a consulting engineer?

A. For over twenty years.

Q. Have you had any experience or connection with any governmental agency?

A. Yes, I have.

Q. Will you please tell us something about that?

A. I became associated in 1943 with the Board of Economic Warfare which later was changed to the Foreign Economic Administration. The Board was engaged in making various studies on the industrial and technical situation abroad, particularly in Germany. These were studies of an economic and technical nature. I acted as consultant to this board. I later went to North Africa as a representative of the Board to take charge of engineering aspects of Civilian industrial development as related especially to military needs. I was in North Africa for five months.

Q. Did you have any other experiences with any other agencies of the United States Government?

A. Yes, in 1945 I went to England and Germany as a member of the Technical Industrial Investigating Commission, which was a joint commission of the Army, Navy, the Foreign Economic Administration, the Department of Commerce. The commission was set up to study German industry directly in order to find what technical developments had occurred in the industrial preparation for war. We made that study by interviews, observations of plants, and studies of German documents. I spent six weeks in England and six weeks at Hoechst, Germany studying German documents and chiefly Farben documents, and visiting factories.

Q. Did you deal with any special problems?

A. Yes, the problems that we were concerned with had especially to do with Synthetic fuels, synthetic rubber, explosives and war gases.

Q. What did your work consist of?

A. There were several hundred specialists on this mission and my work consisted largely in the development of techniques for the investigation and analysis of scientific and technical German documents and the preparation of reports on them. I visited a number of plants during this period and talked to a great number of persons, both German specialists and our own. I had free access to all the documents which developed from the work of this mission and these documents were later published and are still in process of publication by the Department of Commerce.

Q. Were complete and detailed reports made of the German chemical and technological industry of Germany?

A. Yes, fairly complete.

DR. HOFFMANN: Dr. Hoffmann, counsel for the defendant von der Hayde. Your Honors, it is my impression that the witness is reading his testimony. I have to state here that if I, on my part, bring a witness is reading his testimony. I have to state here that if I, on my part, bring a witness I want to also have the right to make our testimony in this form to the Tribunal.

MR. DUBOIS: I might say that this testimony had been prepared so that I read the question and Mr. Elias reads the answers and in view of the particularly technical testimony that it would be in the interest of all parties to have a better understanding of the testimony.

THE PRESIDENT: The Tribunal is not inclined to impose any undue restrictions as to how counsel interrogates his witness; whether he does it entirely extemporaneously or from notes and we know of no reason in testimony of this kind, the witness is asked to review his past, why he may not refresh his recollection from notes, if he has them. It might well be that when you get into the substance of the witness's testimony it might become a pertinent enquiry as to whether he is testifying or reading but in this preliminary stage of the enquiry the Tribunal is not inclined to interfere and for the time being,

at least, this motion will be overruled! Counsel may proceed.

BY MR. DUBOIS:

Q. Did you have occasion to study these various reports which were prepared by this technical board?

A. Yes. I not only studied them while in England and Germany but also when I returned home.

Q. Did you have any other experience with any U.S. government agency?

A. Last year I went to the Far East and Germany as a member of the Paulay Mission on reparations, which was to report to President Truman on the status of reparations.

Q. What were your duties on that mission?

A. I was consultant on chemical and chemical engineering matters.

Q. Could you tell us briefly something about the nature of your work with the Fuel Commission?

A. We made studies in Japan, in Korea, in Manchuria, in Formosa, and in Germany on various aspects of industry as it related to reparations problems and I assisted in the writing of reports on the chemical engineering aspects of that subject.

Q. Are you a member of any professional society?

THE PRESIDENT: If you will pardon an interruption, gentlemen, the Tribunal finds it is necessary to admonish counsel and the witness because of the fact that this trial is conducted in two languages and sufficient time must be afforded the translators. It will be necessary that you go somewhat more slowly than might otherwise be required and for the information of the witness the yellow light is an indication that you are going a little too rapidly and is a notice from the translation staff that they are having difficulty in keeping up with you and if you please keep that in mind, gentlemen, I think that will expedite the trial.

BY MR. DUBOIS:

Q. Are you a member of any professional societies?

A. I am.

Q. Could you please tell us what societies they are?

A. The American Chemical Society, the American Institute of Electrical Engineers, The American Institute of Mining and Metallurgical Engineers, The National Farm Chemurgic Council, and the American Association for the Advancement of Science.

Q. During your professional career as consulting engineer, have you had occasion to keep current with the scientific literature in addition to other matters?

A. Yes, I have.

Q. And are you familiar with the current technical literature in this field?

A. Yes, I am.

Q. Now, Mr. Elias, the Tribunal has had presented to it numerous documents containing many technical names and much highly complex technical material. A simple definition of these terms used is insufficient to clarify the meaning of these documents. You have been called as an expert in order to help clarify and interpret many of these technical matters in order that the Tribunal may understand more fully the significance of the various documents and their relationship to each other, and in particular their significance to the charges made in this case. Before proceeding, would you please explain very briefly what special background you have acquired for this particular testimony in addition to the qualifications previously mentioned?

A. I have carefully gone over the documents which are presently in evidence. In addition, I have relied on various official U.S. publications such as those of the U.S. Strategic Survey, the Study of the Petroleum Facilities of Germany made for the Fuels and Lubricants Division of the Quartermaster General, the various industrial studies of German industry, made by the U.S. Foreign Economic Administration, and the numerous FIAT reports made by several hundred U.S. Army, Navy, and civilian experts on all aspects of the German chemical industry.

Q. Before proceeding to explain the meaning and significance of individual products, would you please give the court a general picture of the significance to Germany of the basic chemical processes developed by Farben in the manufacture of synthetic products from coal, water and air.

A. German chemical industry was one built on coal, air and water. Supplies of petroleum in Germany are very meager. The maximum production of petroleum in all of Germany from its own oil wells has always represented only a small fraction of its total requirements. Coal, however, is plentifully available and brown coal, which is a sort of lignite, is available in huge quantities and easily accessible

to large scale mining. With coal as a basic material and with the aid of air and water, indefinite numbers of organic compounds composed of carbon, nitrogen, hydrogen and oxygen can be made. 84½% of Germany's aviation fuel, 85% of her motor gasoline, all but a fraction of 1% of her rubber, 100% of the concentrated nitric acid, basic component of all explosives, and 99% of her equally important methanol were synthesized from these three fundamental raw materials—coal, air, and water.

Q. Will you please explain briefly the military significance of these products?

A. The military significance of oil is best explained by the fact that in the closing months of the war, after the British and American Air Forces had concentrated on German synthetic oil targets, Germany's large reserve in military aircraft stayed on the ground with empty tanks; armored vehicles were moved to the front by oxen and every motor trip exceeding 60 miles had to be approved by the commanding general. Without nitrogen, not a single ton of military explosives or propellant powder could have been made. Certain military explosives were entirely dependent on synthetic methanol as well as ammonia. Without rubber, of course, the war machine could not have rolled.

Q. What is the interrelation among these various processes?

A. The element which is common to the synthesis of liquid fuels, ammonia (from which nitric acid is made) and methanol, is hydrogen. Pure hydrogen is needed to fix the nitrogen of the air: it is needed to reduce the coal tar or coal to liquid fuels: and it is needed to reduce the carbon monoxide made from coal to methanol. It is also needed in certain stages in the production of butadiene for the manufacture of synthetic rubber. Because of this fact several products were manufactured from hydrogen in the same unit in the various I.G. plants. In plants such as Leuna we find not only ammonia being pro-

duced but also gasoline, lubricating oil, methanol, and other products. At Ludwigshafen we find synthetic ammonia, menthol, organic intermediates and synthetic rubber. At Waldenburg and Hydabrock there is ammonia and methanol and ethylene. In other words, it was found to be more economical to build several operations which consumed hydrogen around the central hydrogen production so that as the demand for any of the individual products fluctuated, the hydrogen production could be shifted for use to one of the other products and thus kept going.

Q. Does the production of hydrogen for these purposes require large sized installations?

A. The production of hydrogen of high purity in enormous amounts for these various syntheses require very large and complex technical equipment and high investment cost. The hydrogen is made by treating coke from coal with steam in suitable generators and then treating the resulting mixture of gases to give pure hydrogen. Huge storage facilities are necessary in addition to the generator equipment and the purifying equipment. The hydrogen production tends to be the limiting factor in the production of any of the other product.

These various processes in which hydrogen is used for hydrogenation of different substances are all high pressure operations. These pressures run up to many thousands of pounds per square inch.

Q.- How is ammonia produced?

A.- Ammonia is produced by first separating the elementary nitrogen from the air and after mixing it with hydrogen passing the mixture under high pressure over a substance called a catalyst which is something that causes the combination to take place, forming ammonia. To achieve the pressures required, huge compressors are necessary, and with the large volumes which are involved in the production on the scale in which these products were produced in I.G. Farben, very substantial installations were necessary and large investments in equipment were unavoidable. The importance of ammonia strategically is that it is necessary for the production of nitric acid for explosives.

Q.- Well, how about methanol? How is that produced?

A.- In a manner quite analagous to the production of ammonia. The gases generated from steam and coke, namely, carbon monoxide and hydrogen, adjusted to the proper proportions and purity, are compressed and passed over another type of catalyst, and from similar equipment there is obtained methanol which is an important strategic raw material for many war purposes.

Q.- In the case of synthetic fuel, is this a similar process?

A.- Well, in the production of synthetic fuel we have again a hydrogenation process carried out at high pressure, but the coal must be processed before it can be hydrogenated. By a suitable distillation process in batteries of retorts the coal is first carbonized to form a tar and coke and some hydrocarbon gases. The tar in which additional coal may be suspended in powder form is then mixed with the catalyst — this is a different catalyst — and passed with hydrogen under pressure through a heated zone where a certain portion of it is converted into liquid fuel. This is separated and the residue recirculated to form more liquid fuel. Here again, the preparation of the coal for hydrogenation, the circulation of the tar or tar and coal mixture through the

various heavy hydrogenation vessels, the separation and purification of the finished liquid fuels, all involve heavy equipment in large installations and, therefore, huge investments.

It has been estimated by the experts of the Fuels and Lubricants Division of the Office of the U.S. Quartermaster-General that the investment cost in plants of this nature is from ten to thirty times as great as the investment cost to produce similar quantities of liquid fuels from natural petroleum.

Q.- Is there any other process for fuel production besides the Farben process?

A.- Yes, Yes, there is another source of synthetic fuel besides the I.G. hydrogenation plants. This source is the so-called Fischer Tropsch Process, but this produces a lower grade gasoline which has to be fortified with other materials to make it effective even for ordinary automotive purposes and represents only about fifteen percent of German production.

Q.- Were any important by-products obtained in the liquid fuel process?

A.- Yes. Associated with the production of liquid fuels and also with the production of tar from coal for use as a raw material for liquid fuels and also with the production of tar from coal for use as a raw material for liquid fuels was the production of various hydrocarbon gases. These served as a raw material for various other products in the chemical program. For one phase of the chemical program such gases were treated to produce ethylene, an important material for a whole series of strategic substances.

For another phase of this work such gases were treated in an electric arc to produce part of the acetylene needed for the synthetic rubber program. Also produced as by-products in the treatment of coal were benzol and toluene.

Q.- You mentioned acetylene as being one of the products made from the production of synthetic fuels. What is the importance of acetylene?

A.- Well, acetylene was important as the chief raw material for synthetic rubber. In addition, products made from it such as ethylene, ethyl alcohol, and so on, were essential for the production of solvents, gun powder, high explosives, poison gases and high-grade lubricants.

Q.- Will you describe very briefly the process used by Farben for the manufacture of synthetic rubber?

A.- The basis of the synthetic rubber industry lies in the work which was done by scientists of all nations during a period of over a hundred years. In 1927, I.G. Farben chemists discovered that by a treatment called coal polymerization and using two substances called butadiene and styrene, a rubber like substance could be obtained. This, when properly compounded, had many of the properties of natural rubber. The development of the process on a practical scale depended among other things on the economical synthesis of the two chief raw materials, butadiene and styrene. Styrene is made by treating benzol, which has previously been described as coming from coal tar, with ethylene which may be made from ethyl alcohol or coal gas or acetylene. The synthesis of butadiene itself was carried out in a four-step process from acetylene and the steps of this are a little bit too technical to go into.

One slight variation of this process was the substitution of a product made from methanol for some of the acetylene. After the styrene and butadiene are made, the mixture is emulsified in water and under very closely controlled conditions of composition, temperature and pressure, the mixture is coal polymerized to form a rubber containing latex from which the rubber is separated very much as rubber is separated from ordinary natural latex.

Q Did Germany have any other sources of products from coal besides the Farben processes?

A Yes, the production of certain types of coke is a very large-scale and essential industry in the manufacture of iron and steel. Throughout the German steel industry coke is produced by the distillation of coal and the hydrocarbons and gases isolated from this coke are available for the recovery of by-products. These by-products such as by-products ammonia and benzol and toluene and other substances are essential raw material for the practice dyestuff and pharmaceutical industry and were of the utmost importance as raw materials for the many strategic military products such as explosives and war gases. Farben plants used much of the material from the coking industry.

Q. Now in this hasty outline you have sketched the basic structure on which the organic chemical industry, particularly Farben, was based. Could you summarize for us very briefly?

A. Well, in summarizing I have indicated the sources of synthetic and by-product ammonia, synthetic methanol, synthetic liquid fuels, synthetic rubber, acetylene, ethylene, benzol and toluene. The actual structure of important intermediates and finished products is built on this skeleton of raw materials; so that starting with coal, air and water, Farben was able to supply Germany with most of its liquid fuels and lubricants, practically all of its rubber, all of its methanol, most of its ammonia and, therefore, its nitric acid and its raw materials for the production of dyestuffs, pharmaceuticals, explosives and poison gases.

Q. Now, Mr. Elias, let us take a look at two charts prepared by Dr. Struss. It is in the Document Book XXXIV. That is pages 115 and 125 of the English and 220 and 229 of the German. They have been introduced as Prosecution's Exhibits 612 and 615 respectively. NI-10008 shows eighteen strategic materials produced by Farben showing how their

volume of production increased from '32 to '34 and NL-10010 shows the dependence of the Wehrmacht on Farben's production of these strategic commodities.

Now I suggest that we take the most important of these strategic commodities that are listed in these charts and briefly discuss the significance of the most important items, taking them up one by one. I suggest that we start first with synthetic rubber, and I ask you to please explain the significance, first, as you see it, of the way in which the synthetic rubber industry grew up in Germany.

A. The outstanding fact in the development of the synthetic rubber industry in Germany is this; that although the Farben process was originally discovered as early as 1927, it was so uneconomical that no progress was made until after 1933. Chart NL-10008 shows the very rapid development of production after 1935. At that date it was only two hundred metric tons, but it increased steadily to twenty-two thousand metric tons in 1939 and then to one hundred eighteen thousand five hundred metric tons in 1943. That was even though bombing in the later years had destroyed some production capacity.

Q. Now you say the process was uneconomical. Can you explain this?

A. Without a great deal of research and improvement, Buna Rubber could not possibly compete with the natural rubber in the world markets if made from acetylene by the processes in use by Farben between 1936 and the end of the War. Due to the fact that Farben had to start with coal as the raw material, it was much more expensive than natural rubber. In fact, it was so much more expensive

that in 1938, a 30.9¢ duty per pound was imposed on natural rubber in Germany. In addition, Farben's production was subsidized by the Government in various ways. In contrast, the New York market price for natural rubber in 1939 was 16¢ a pound. It is evident that the cost was much higher than natural rubber.

Q. Now you speak about the process being uneconomical and the fact that no progress was made until after '33. Now I suggest we turn to Document Book XVIII and look at VI-6930 which is on the first page of both the English and the German books. This was introduced as Prosecution Exhibit 545. This exhibit contains a memorandum sent to the Army Ordnance Office on 15 August 1933. That appears -- this memorandum -- on the third page of both document books, a copy of which was later sent to the Reich Ministry of Economic Affairs and then there was a reply by the Reich Ministry of Economic Affairs in November, which is the first document in the book.

Now you will note that Farben indicated in its memorandum on page 4 that they would be willing to manufacture synthetic rubber, manufacture synthetic tires for the Government should the tests by the Government prove satisfactory. And in the reply by the Reich Ministry for Economic Affairs it was indicated that should the tests prove favorable to the Reich Ministry, they would support requiring the Government to use synthetic tires provided these prices were satisfactory. Now what is your understanding of the significance of this correspondence in the light of what you know about this process?

A. Well, as I understand the correspondence, it has two significant points. One is that the approach to the Government was made through the military and the other is that the Economic Ministry agreed to support a product even though the price would obviously be much higher than natural rubber in the world market. For Farben this would mean not only the establishment of this industry on a large scale with many related possibilities for the manufacture of other products from the same raw materials, etc., but it would prevent the loss of a very considerable

investment in research which had been carried out over a period of years, because research on the question of synthetic rubber had been carried out even in the last war, and in the intervening period had been continued.

Q. Let us now turn, Iri Elias, to the next document in Document Book XVIII. That is 4713, which is a letter from the Reich -- it is page 5 of the English and 6 of the German. It is a letter from the Reich Chancellery to Farben in November, 1935, stating that Hitler was greatly interested in speeding up the construction of the Buna plant and asking Farben to speed up its planning, and there is also enclosed a memorandum of a conference about synthetic rubber between the Army Ordnance Office in October, 1935. Now you will note on page 9 of the English book -- that is 14 of the German -- at the bottom of the page it is indicated that work on Buna tires for the Army would be speeded up so that the Army would be able to decide whether natural rubber had to be stockpiled, and it is further indicated that the production of synthetic rubber was no longer a question of foreign exchange but had become a question of military policy with the requirements of the Wehrmacht being decisive. Now did the Wehrmacht stockpile large quantities of natural rubber, or did they come to rely entirely upon Farben's synthetic production?

A. Well, they placed practically their entire dependence on Farben's synthetic rubber. The U. S. Strategic Bombing Survey in its Oil Division Final Report gives the figures for the stocks of natural and synthetic rubber in Germany at the beginning of the war. They amounted to only nineteen thousand three hundred eighty-three tons. The Wehrmacht was quite evidently relying on the synthetic rubber production of Farben because this represented only enough rubber for 2.4 months of pre-war consumption.

Q. Was Farben equipped to carry out this task for the Army?

A. Yes, it was. Its plans were ready. Farben started with its plant for Buna S in Schkopau after having developed the process on a pilot plant scale in Leverkusen. This plant was built in 1936, nine years after the process was discovered, with an annual capacity which ultimately became seventy thousand tons and with a capacity for making other products besides and a total investment of four hundred million marks. In 1938 the Huels plant was built. This was for the production of forty-five thou-

sand tons of rubber and some other products at a total investment of two hundred sixty million marks. In 1941 the Ludwigshafen plant was built with a production of thirty thousand tons of rubber and an investment of ninety-one million marks, and also in 1941 the construction of the Auschwitz plant was undertaken to produce thirty-six thousand tons of rubber together with one hundred thirty thousand tons of methanol and one hundred thousand tons of high octane gasoline.

Q. Now in one of these documents it is stated that Farben hoped to make its synthetic rubber better than natural rubber. Was it actually better?

A. It was not.

Q. Was it found possible to substitute the synthetic rubber for the natural rubber previously used?

A. Not entirely. It was found best to include twenty-five percent of natural rubber because that gave a superior tire in the aggregate. Certain portions had to be substituted with natural rubber, certain parts of the tire.

Q. Now before passing from our discussion of synthetic rubber, I would like you to clarify a question which is not only relevant here but will be relevant later on when we introduce proof in connection with a subsequent section. Now that is, could you explain to us briefly the relationship between the process developed by Farben for the manufacture of synthetic rubber from coal and the process for manufacturing synthetic rubber from oil or natural gas, which, as I understand, is being used in the United States?

A. Well, plants for the production of the most important ingredient in synthetic rubber which has been mentioned before, namely, butadiene, have been constructed using natural gas as a raw material and also recovering butadiene in conjunction with various petroleum refining processes in the United States. Once pure butadiene is obtained by either process, the rest of the procedure is the same. Some of the

experiences in Germany on the purification of this butadiene and on methods of converting it together with the other raw materials into rubber would have been invaluable at the beginning of the rubber program in the United States. The step of converting the raw materials into crude rubber, namely, coal polymerization, involves the use of special technique, special catalysts, special emulsifiers and technical "know how" such as details of temperature and pressure, etc. However, not only the production but the actual compounding of the finished rubber into useful products such as tires required new techniques and new knowledge, especially of compounding ingredients. There was available in the United States only a relatively small proportion of the knowledge required for this purpose, and the rest had to be developed through very intensive investigations. The compounding of rubber requires special varieties of materials such as carbon black, vulcanization accelerators and especially of substances called tackifiers which are materials that cause the rubber to adhere to the fabric used in making the tire and cause the various layers of rubber to adhere to one another. Very little information on any of these things was available at the beginning of the war in the United States.

Q. Turning to aluminum, magnesium, can you tell us briefly something about Farben's production of these products?

A. Farben produced 7 per cent of Germany's aluminum products in 1937 and 8 per cent in 1943. However, the actual tonnage production of aluminum by Farben increased steadily, and very substantially between 1932 and '44. In 1932 Farben produced 1,400 tons of aluminum and this tonnage increased to 16,500 tons in 1939, and finally to 24,000 tons in 1943.

In the case of magnesium, however, the situation was different. Here Farben, in 1937, being the only producer of magnesium in Germany, produced, - here production arose from 1932's production of 1100 tons to 16,600 tons in 1939, and 27,400 tons in '43.

Q. From your study of Farben, Mr. Elias, can you tell us whether there was any important product made by Farben, essential for the aluminum business?

A. Yes, there was. I.G. manufactured a material called, "synthetic cryolite", which is the flux in which aluminum is produced by the electrolytic process. It is essential for the production of aluminum, and I.G. was the sole producer. It is normally imported, but I.G. made it synthetically.

Q. What is the strategic importance of magnesium?

A. Magnesium is the lightest of the commercial metals, and for this reason it is of the utmost significance in the production of alloys for building planes, and for other construction where lightness is important. In addition, it has various other strategic uses in wartime. It is used for the production of incendiary bombs, especially in powder form. It gives off tremendous heat on combustion, and this is what makes it so useful for incendiaries. The Luftwaffe would have been at a considerable disadvantage, relative to the air forces of the other countries, if it had not been provided with magnesium, and magnesium had been available to its opponents.

COURT VI CASE VI

Q. Now let us turn to Document Book 30, the first document in the book, NI 7123, which is already in evidence as Prosecution's Exhibit 90. This is a memorandum of 15 September, 1933, concerning a discussion in the Reich Air Ministry between officials of the Air Ministry and the Army Ordnance Office at which the difficulties of military rearmaments are discussed. You will note that Milch approves the enlargement of production at Farben's plant at Bitterfeld, and he also approves a new electron metal finishing plant, and it is also mentioned in here that electron metal is used for incendiary bombs. What is elektron metal?

A. Elektron metal is a trade name for alloy of magnesium containing about 90 per cent of magnesium and 10 per cent of aluminum and other metals.

Q. Turning to NI 4497, in Book 30, it is on page 8 of the English and page 9 of the German, a contract between the German Reich and Farben (Prosecution's Exhibit 573) in June, 1943, providing for the building of a plant for the production of what is called, "hydronalium". What is hydronalium?

A. Hydronalium is a magnesium alloy with aluminum, which is resistant to sea water, and to corrosion, and so would be suitable for naval and other construction where corrosion resistance is important.

Q. Now on page 48 of the same book, in the English, 63 of the German, we have NI 6483, which is Prosecution's Exhibit 581, the first Bi IV/1 powder is mentioned on the first page of the document. Can you explain what this is?

A. Bi IV/1 powder is a special trade or cover name for a powder which consists of about half and half of aluminum and magnesium. It is simply a powdered form of that mixture. It is useful in flares and incendiary bombs.

Q. Now coming to synthetic fuel, we have introduced evidence to show that the development of the Farben process for synthetic fuels and lubricants is one of Farben's most difficult and costly projects. We have shown and introduced proof designed to show how Farben approached the Nazis in '32 to find out their attitude toward this project. On discussing this field, we have referred to "liquid fuels" generally, and I would like at this time, if you could make a distinction between the fuels and lubricants required for military purposes;

A. Well, the essential fuels for military purposes, especially for military aviation, would be high octane gasolines. For military purposes, the lubricants required must be very special lubricants. They must be able to withstand extremely low temperatures and still maintain their lubricating value. A high octane fuel is one which can be used in the type of high compression engine that is used in military planes, and without such a fuel the efficiency of the plane is diminished and without the low temperature lubricants, the efficiency of motor vehicles generally, and air planes in particular, is seriously diminished, as was shown in the winter campaign in Russia.

Q. In this Struss chart, "Synthetic Gasoline and Lubricating Oils and Tetraethyllead" are so interrelated that I think it would be desirable if we discussed them together. You will note from Chart NI-10008, that Farben's production of synthetic gasoline increased from approximately 102,000 metric tons in 1932, to 400,000 in 1939, and to about 510,000 in 1943. What was Farben's contribution to total production of synthetic fuel and lubricants in Germany?

A. In 1937 Farben's production of synthetic gasoline and lubricating oil accounted for 60 per cent of the total German production, but this does not give a full picture of the Farben relationship to that product or to those products. The processes that Farben developed, - that is, the I. G. Liquid Fuels Process, - which was developed from the original Bergius process, was licensed to various other companies throughout Germany amounted to approximately 85 per cent of all of the synthetic

fuel produced, and as far as high grade synthetic lubricating oil was concerned, this was all made in Farben or Farben plants.

Q. Will you explain, very briefly, what is meant when we speak of "high octane" gasoline?

A. Well, a high octane gasoline is one that has a high anti-knock quality. This means that the vapor-air mixture on compression will not pre-ignite. Military aircraft are all provided with high compression engines, and a fuel must be of a nature so that the vapor-air mixture can be compressed very highly before igniting. If it ignites too soon, the efficiency of the engine is affected.

Q. How is high octane gasoline manufactured?

A. It is generally made from petroleum or natural gas by special treatment of these products to produce special types of hydrocarbons of which iso-octane is an example. Farben, however, due to the absence of these raw materials, developed an elaborate method for the manufacture of iso-octane. They made this by using a product made in conjunction with the synthesis of methanol. This product is called, "iso-butanol", and the production of iso-octane from it is an expensive procedure, so that the product would not be competitive in a free world market.

Q. Is there any other way to produce a high octane gasoline from ordinary gasoline?

A. Yes, a very large part of the aviation fuel used in the war was made by the addition of tetraethyllead, which has the anti-knock effect to gasoline produced by the I. G. process.

Q. Now turning to Document Book 26, page 37 of the English and 63 of the German, NI-7295, which was introduced as Prosecution's Exhibit 516, this was a Government report entitled, "Confidential Report - Supply of German requirements in Minerals", dated 16 October 1934. You will note that the first vital task enumerated for A-Fall is the production of aviation gasoline from domestic resources. How is this problem solved?

A. Farben solved the problem of making aviation fuel, as I said, by the two methods, namely, not only making iso-octane but also making tetraethyllead which was added to the ordinary gasoline produced from the I.G. liquid fuel process to raise its octane rating.

Q. Turning to NI-5931, which appears at page 94 of the English Book 26, and 136 of the German, Prosecution's Exhibit 523, on page 97 of the English, and 140 of the German, are the minutes of a strictly confidential conference held in June, 1935, between Farben and representatives of the Army Ordnance Branch in the Reich Air Ministry, on the development of special fuels and lubricants.

The minutes of this conference indicate that Farben has been conducting experiments on the iso-octane process. They also proposed the inauguration of large scale production at Waldenburg. At this conference reference is made to the manufacture of pure synthetic lubricants from what is called "olefin" gases. Can you explain this?

A. Yes, a process was developed in the United States for the manufacture of lubricating oil of a very high quality suitable for aviation gas — for aviation by the treatment of olefin gases, chiefly the ethylene which I have previously described. This process was used by Farben, and consists in subjecting these olefin gases to

treatment with aluminum chloride. Under proper conditions, a very good lubricating oil, suitable for aviation is obtained.

Q. You will note in the second paragraph, under Part 2 of this document, on the next page, the statement that the "rejection of these processes, due to the fact that they are uneconomical, cannot be a primary consideration for the purposes of Reich Air Ministry, of production of extremely high quality materials for a limited sphere of utilization can be achieved with their help."

Can you explain why the production of this synthetic lubricating oil from olefin gases would be so expensive?

A. Yes, if you will note at the bottom of the page, in that same document, the olefin gases for these lubricating oil were made from a by-product gas at Leuna, and that by-product gas had to carry some of the costs of its production, and had to be isolated, and the aluminum chloride had to be used, so that in the aggregate, the raw materials involved were quite costly.

Q. In view of the fact that this discussion was with both the Army Ordnance and the Reich Air Ministry, and had to do with iso-octane, which is so essential for military aviation and high quality lubricating oil, which is also essential for military aviation, could there be any doubt that the products in question were for military purposes?

A. I think not.

Q. Now you have described the process which Farben invented for the manufacture of iso-octane gasoline. You also mentioned high-octane gasoline could be obtained by adding tetraethyllead to ordinary gasoline. Can you give us any estimate of how much high-octane gasoline can be

manufactured from ordinary gasoline with a given quality of tetraethyllead?

A. Well appreciably less than one per cent is added to an ordinary gasoline to convert it. It may be as little as one-half of one percent. For example, one ton of tetraethyllead would convert over 100 tons of ordinary gasoline, possibly as much as 200 tons. It depends upon the gasoline and the octane rating desired.

Q. Now at the last session of the Tribunal an exhibit was offered as Exhibit 732, in Book 39, where reference was made to a transaction between Farben and the Ethyl Lead Export Corporation, by which Farben borrowed 500 tons of tetraethyllead in 1938, for which they later forfeited One Million Dollars. Approximately how many gallons of high octane gasoline could be produced by adding this material to ordinary gasoline?

A. Well, figuring roughly, 300 gallons to the ton, it should be between 15 million and 30 million gallons of high octane gasoline, or in that neighborhood.

Q. Turning now to book 25, I refer you to document NI-9029, which appears at Page 100 of the English, and 144 of the German, Prosecution's Exhibit 524. This is a letter of the Reich Air Ministry to the Army Ordnance Office, September, 1936. It refers to a memorandum on decisions made with respect to aviation gasoline. On page 4 of this document, - the original document, - mention is made of the fact that Farben obtained a license for the production of tetraethyllead, and built a plant for the production. Was Farben the sole producer of tetraethyllead in Germany?

A. Yes, Farben was the producer of ethylene chloride, which is a necessary raw material in the process. The operation is, technologically, very difficult, because of the toxic property of the tetraethyllead.

Q. Now let us refer to Book 27; NI-7138, which is on page 121 of the English, and 112 of the German, Prosecution's Exhibit 537, which is the "top-secret" report from the files of the Chief Armament Economic Office, in January, '39.

On the first page it is indicated that Krauch set up a mineral oil production plant to increase mineral oil production from 2,800,000 tons per year to 11,300,000 tons per year, and data is given as to how this production would be distributed amongst the various types of fuels and lubricating oils. You will note particularly the last sentence in this paragraph, which says:

"particular significance is attached in this connection to the production of aviation motor fuel on which the striking power of the Luftwaffe is dependent", and on the third page of the document it is stated that for the conduct of a modern war, mineral oil is as important as aircraft, tanks, ships, weapons and ammunition.

Now Struss has stated that without Farben's contribution to the synthetic gasoline and lubricating oils it would have been impossible for Germany to motorize the Wehrmacht and to go to war, and also that the high octane fuel produced by Farben was necessary for the conduct of a prolonged war.

Have you any further comments to make on Farben's contribution to the German war effort through their synthetic fuels program?

A. A good summary of the synthetic fuels program is contained in the report on the petroleum facilities of Germany prepared by the Enemy Oil Committee of the United States, for the Fuels and Lubricants Division of the Office of the Quartermaster General. This statement made by the leading oil experts of the United States describes the

attempt at complete oil autarchy as one which was made without regard to cost, or to ordinary financial consideration, and one which is a striking example of the character of Germany's plan for conquest.

It states further that the complicated structure of the enormous synthetic oil industry was built up on the basis of political and strategic expediency.

A similar opinion is expressed by the United States Strategic Bombing Survey. My investigation in this field fully supports this conclusion.

MR. DUBOIS: We are coming to a new subject. I think it might be a convenient time to recess.

THE PRESIDENT: The Tribunal will arise to its morning recess.

(In recess until eleven-fifteen).

THE MARSHAL: The Tribunal is again in session.

MR. DUBOIS: I would like to just say, before we start, that we fully realize that some sections of this testimony might sound more effective if it weren't being read, but the difficulties involved here in both the technical aspects of it and particularly in the light of the translation into another language -- last night we gave the court translators the text of this and I think they spent several hours on it in an effort to be able to properly convey it to the defense as we were going along -- is one of those problems that is peculiar to this type of proceeding and in some senses it is a handicap. But I feel that going on the way we are is in the best interests of the clearest understanding of the testimony both to the Court and to the defense, even though on the surface it may not sound quite as effective.

THE PRESIDENT: In that connection the Tribunal will just merely observe that the handling of a witness on the stand is primarily the function and the responsibility of the counsel that is examining him. The Tribunal will take care to accord to the defense, as well as the Prosecution, the same substantial rights in the trial of this case.

BY MR. DUBOIS:

Q. Now, Mr. Elias, going on to explosives, you have stated that explosives are all dependant upon nitric acid which, in the absence of any natural supply, such as Chilean nitrate, is obtained from ammonia. Will you please explain Farben's position in regard to ammonia?

A. The figures for ammonia are very significant indeed since I.G. Farben's share in total German production of ammonia was 70% in 1937 and rose to 75% in 1943. The tonnage produced in metric tons was 218,000 tons in 1932

and rose steadily to 554,000 tons in 1939.

Q. There are references in these documents to concentrated nitric acid for explosives; Will you explain that?

A. Yes. All high explosives, as well as gun powder, are made by nitration using a mixture of concentrated nitric acid with concentrated sulphuric acid for the process. Dilute nitric acid is also used for making ammonium nitrate, which is both an extender for explosives having violent explosive properties of its own but finds its most important use in peacetime as a fertilizer.

Q. Is ammonia itself, as well as nitric acid, used directly in the making of explosives and extenders?

A. Ammonia itself, as well as nitric acid, which is made from it, are used in making ammonium nitrate and in making several other high explosives such as hexogene and ethylena diamine dinitrate.

Q. Are these shown on this chart which is entitled "The Interlocking of Raw Materials For the Production of Powder Explosives and Preliminary Products" which was introduced as Prosecution Exhibit 591?

A. Yes. They are shown on that chart and the interrelations between ammonia, nitric acid, explosives, gun powder and chemical warfare materials are shown.

Q Can you give us any figures on concentrated nitric acid production since these are not given in the Struss charts?

A Yes, the U.S. Strategic Bombing Survey has collected these figures and gives figures for explosives, gunpowder, extenders and concentrated nitric acid which is called Hoko for short, from the German for high concentration nitric acid. These figures are given for the period 1933-1942. In 1933 production was 10,000 tons per month or 120,000 tons per year for military use alone and this rose steadily until in 1942 it reached 60,000 tons per month or 720,000 tons per year. In 1934 the capacity for concentrated nitric acid was 120,000 tons per year and this rose steadily until in 1939 it reached 312,000 tons per year and continued on upward. In comparing this with the tonnage of ammonia which is its source, it should be remembered that this was for concentrated nitric acid only and took no account of dilute nitric used for explosive extenders nor does it take into account the ammonia itself used directly for explosives. The U.S. Strategic Bombing Survey states that explosives production started to increase from 1933 on, so that there can be no question that a very large proportion of the increased ammonia production of Farben after 1932 went into explosives, gunpowder and extenders. Farben's share of the explosives industry of Germany was 81% in 1943, and its share in the gunpowder industry was 70%, and as I stated before, her share in German ammonia production was between 70% and 75%.

Q Turning to Document Book 34, VI-4498; Prosecution Exhibit 601, page 18 of the English and 22 of the German, a letter in April 1937 relating to an agreement between Farben and WIFO concerning the construction of an oleum factory for A-Fall. As you will note the document confirms that the plant will be solely for the purpose of the Wehrmacht. What military significance has oleum?

A Oleum is a highly concentrated form of sulphuric acid which is

used in conjunction with nitric acid in the nitration of explosives.

Q In view of your testimony on the continually increasing consumption, ammonia and nitric acid for explosives and gunpowder production, do you believe it would be possible for a chemist in a responsible position in Farben to be ignorant of the military nature of this program?

A I do not.

Q The second item on the chart NI-10008, preceding explosives and gunpowder, is diglycol. Will you please explain what this product is and I.G. Farben's position insofar as the manufacture of this material is concerned?

A Diglycol was a new development as an intermediate for making gunpowder. Because of the shortage of fats from which glycerine is produced, and because nitroglycerine made from glycerine is an ingredient of gunpowder, a substitute for this glycerine was necessary in gunpowders, and diglycol was developed by Farben as such a substitute. Ethylene and ethylene oxide are intermediates for the production of diglycol. The plants for making it were therefore usually built in conjunction with synthetic rubber plants where raw materials could be obtained from acetylene from which these products could be produced since acetylene was made at these plants for synthetic rubber. In converting the diglycol into gunpowder, it was nitrated with nitric acid to form nitrodiglycol which is shown in the same powder and explosives chart as an ingredient of gunpowder. The Struss Chart shows that its production was started in 1936. The figures given on that chart with regard to diglycol are, as stated by Struss, incomplete as they did not include the products of two of the plants. All the diglycol manufactured in Germany was made either by I.G. Farben or in plants operated by it and all used I.G. Farben processes.

Q In Document Book 33 I call your attention to two documents, NI-

5762 and NI-5761, pages 28 and 31 of the English , and 23 and 26 of the German. The documents have already been introduced as Prosecution Exhibits 108 and 109 respectively. NI-5762 contains the minutes of a conference between Farben and the Army Ordnance Office in August 1935 concerning the establishment of a diglycol plant at Wolfen, and NI-5761 is a strictly confidential memorandum on a discussion with an official of the Army Ordnance Office concerning research work in connection with diglycol in Sept. 1935. Now, Mr. Elias, can there be any doubt that the planning of extensive research and the erection of a diglycol plant in 1935 under the circumstances described in these memoranda was for military purposes?

A No. There can be no doubt that this material was intended for the production of gunpowder.

Q Now, I call your attention to Document NI-4488, being Prosecution Exhibit 115, which appears at page 42 of the English Book and 39 of the German. This refers to a conference between I.G. Representatives and Dr. Zahn on 17 December 1936, in which it is pointed out that lack of glycerine makes it urgently necessary to complete the Wolfen diglycol plant by March 1. Will you please explain the significance of this statement?

A Well, this simply substantiates the fact that diglycol was being planned and used as a substitute for glycerine in gunpowder.

Q Now, we refer to NI-4487, Prosecution Exhibit 116, which appears at page 43 in Book 33 of the English Document Book, next page, also dated 17 December 1936. Will you please note at the bottom of the document that diglycol is to replace glycerine and to the reference in the document that it is necessary for the diglycol plant to go into production immediately after completion. Is there anything significant in that statement?

A That simply confirms the fact that these plants were for military preparation, and there appeared at this date to be considerable urgency about the matter.

Q Now, turning to Book 34, NI-8790, pages 54 to 56 of the English and 149 to 153 of the German, Exhibit 609. This is a report of Army Ordnance in May 1939 relating to the production of diglycol. Will you please explain the significance of the figures appearing on these pages?

A This is a report in which the production capacity for diglycol at I.G. plants, Ludwigshafen, Wolfen, Schopkau, Huelo and Trostberg is indicated, showing a present and planned capacity of 7,600 tons per month. This quantity of diglycol would produce something over 10,000 tons of nitrodiglycol. The German tables given in the report of the U.S. Strategic Bombing Survey show that on the average approximately 20% of nitrodiglycol was used in the finished gunpowder. This 10,000 tons of nitrodiglycol would therefore represent 50,000 tons of gunpowder per month.

Q We will now discuss the relationship between methanol and the raw materials for TNT and hexogen, both of which are high explosives. Can you tell us how methanol, which was produced exclusively by Farben, fits into the explosives picture?

A It fits in several ways. There are shown in the chart on explosives and their relation to ammonia and nitric acid a variety of connections. First, on oxidation with air it produces formaldehyde, which with ammonia produces hexamine, the raw material for hexogen, one of the most powerful high explosives used in the war. In a similar fashion formaldehyde from methanol is an ingredient for producing nitrocellulose, another powerful explosive. Finally, when methanol itself is combined with benzol under suitable conditions it produces toluene, sometimes called toluol, the raw material for TNT, the high explosive used in greatest quantity during the war.

Q You stated previously that toluene was normally obtained from coal gases. Is that correct?

A Yes, toluene is normally obtained from coal gas but the quantities of TNT required for a major war need additional sources of toluol.

Q I refer you to Book 34, NI 10580, page 129 in the English, 232 of the German, exhibit from U. S. Strategic Bombing Survey, Prosecution Exhibit 616. Will you please read the second paragraph on that page pertaining to powder and high explosives?

A "The production of powder and explosives was bound to the manufacture of synthetic ammonia and methanol in three ways. All the principle explosives and propellants (exceptions were the initiating of primary explosives, lead azide and stannate, and mercury fulminate) depended on nitric acid or nitrates in one form or another for their production. Synthetic ammonia was the main raw material for the production of nitration grade nitric acid. Two of the most modern and effective explosives, hexogen and penta, required formaldehyde, which in turn was made from methanol, which was also used in important quantities

for the synthesis of toluene for TNT. In the first half of 1944, about 36 per cent of the total synthetic ammonia and 41 per cent of the methanol went to the production of explosives and propellants. The principal competitor for ammonia was the fertilizer industry."

Q Is the production of synthetic toluene via methanol an expensive process?

A This would be an expensive process chiefly because methanol and also additional chemicals are required to cause this combination to occur; and it, therefore, could not compete with toluene obtained directly as a by-product from coke production.

Q Did Farben develop any other product which alleviated the shortage of toluene for explosives?

A Yes. Hexogen substituted to some extent for TNT made from toluene.

Q Will you please refer again to NI 10580 being the same report of the U. S. Strategic Bombing Survey. At page 132 in the English Book, 234 in the German. I call your attention to the middle of that page and to paragraph "e". Will you please read that short paragraph and comment on it.

A "The shortage of toluene was further alleviated by the adoption of hexogen, which could be made from synthetic methanol and ammonia, as a high explosive. According to German reports it had certain advantages, being sufficiently insensitive for use in armor piercing ammunition and reported 2.25 times as effective as TNT." Now this statement is an indication of the importance attributed by the German Army to the production of hexogens and explains why, even though hexogens consumed much more nitrogen in its manufacture than did TNT, its production was considered so vital for war purposes.

Q Turning to Book 33, NI 6498, on page 36 of the English and 35 of the German, Prosecution Exhibit 111. This is a memo dated December 1935, from Mueller, head of Dynamit AG, addressed to Farben, and I ask you

to please tell us what that letter refers to.

A The letter indicates that in 1935 Dynamit AG had been collaborating with I. G. Farben in research on high explosives for some time and in connection with that collaboration Dynamit AG, working with I. G. Farben and Army Ordnance, had perfected the high explosives hexogen and trinitrobenzene, and were trying to develop the production of synthetic glycerine which was needed in the production gunpowder. My information indicates that trinitrobenzene was not used to any important extent during the war whereas hexogen was very important indeed.

Q Now in Book 34 referring to NI 8790, page 33 in the English, 126 in the German, Prosecution Exhibit 609, a report of the Army Ordnance Office, February 1939, relating to the status of explosive plants in Germany. Under hexogen they list I.G. Ludwigshafen and BASF Berlin. Could you comment on that report please.

A It is obvious from this report that two plants were being constructed for the production of hexogen through the formaldehyde-ammonia process. If you will note on page 4 of the original document under item 3, the second sentence shows that high explosives would be available both on the basis of TNT and on the basis of hexogen as a result of research which had been carried out systematically by I.G. Farben. It also states under item 1 of the same page that hexogen will be ready at the scheduled time.

Q Methanol has some other uses besides those described, does it not?

A Yes, it is used as a solvent, also in the manufacture of the plastic Bakelite, also as an anti-freeze, and as a raw material for the synthesis of other substances.

Q The Struss chart shows a very large increase in methanol production from 1932 on, does it not?

A Yes, production increased steadily from 13,700 metric tons in 1932, to 86,600 tons in 1939, a six-fold increase, and then on to 246,900

tons in 1943, this being almost 2,000% of the 1932 production.

Q From what you have testified with regard to hexogen and telolol, would you say that a substantial proportion of this increase was for war purposes?

A I would indeed.

Q In your opinion were these experiments in 1935 in connection with the production of hexogen related to a peacetime product?

A No, they were clearly military.

Q Will you please turn to document VI-6144 which is prosecution exhibit 110 appearing in Document book 33 at page 34, German book page 30, being a contract dated 1942 between I. G. Farben and the Army High Command. I particularly direct your attention to the preamble which states that in 1935 I. G. Farben on its own initiative conducted experiments relating to the production of hexogen. Could you please explain the meaning of the technical reference in that first paragraph of the preamble?

A The term methylsulfonamide-sulfonamide salt refers to material used in a new process for producing hexogen although the same raw materials, formaldehyde and ammonia, are used. Initially the laboratory at Hoechst carried out the research on this new process in 1935 and took out a series of patents which were kept secret and which are listed on this memo. In addition, as the following sentence shows, an experimental factory was constructed for the process in 1936 so as to gain manufacturing experience.

Q You have testified to the importance of TNT and hexogen in the war production plan of Germany and you have stated that methanol was an important factor in making these plans possible. In view of the nature of these products and of the tremendous expansion in Farben's production of beginning very actively as early as 1935, can there be any doubt that Farben officials engaged in this program had full knowledge that the products were for military purposes?

A No. There cannot be the slightest doubt. For example, the last document you referred to indicates intensive research in 1935 on a new process for the manufacture of hexogen and there is no substantial wartime use for this material.

Q Now, we come to stabilizers. Will you please tell the court first what stabilizers are as shown on the Struss chart NI-10008?

A They are chemical substances which are used to stabilize gunpowder and to prevent gunpowder from exploding prematurely.

Q Will you tell us something about Farben's production of stabilizers?

A Farben was the only producer of stabilizers in Germany. Its production rose steadily from 100 metric tons in 1932 to 2,700 tons in 1939, a 2,600% increase, and then continued to rise, reaching 10,900 tons in 1943.

Q Now turning to Document Book 33 again, NI 5762, page 28 of the English, 23 of the German. This relates to a conference of the Army Ordnance in August 1935 dealing with the subject of stabilizers. You will note in the second paragraph of the second page a listing of five technical products following the sentence that the requirements in case of war are estimated at about four times the capacity of the Herdingen plant. What are the technical products listed therein and what are their uses?

A These products are all stabilizers for gunpowder. They have no other substantial use except for diphenylamine. Diphenylamine was also used for organic synthesis and as an intermediate for poison gas.

EXPLOSIVES

IV. Stabilizers

Q Is there any special arithmetical ratio between the proportion of stabilizers used in relation to the production of gunpowder?

A Yes, you will find in the excerpts from the U.S. Strategic Bombing Survey a table of formulae showing the percentages of the stabilizers used in the various powders produced during the war. This proportion for most of the powders was about 1/2 per cent; for the balance it was higher, ranging as high as 1%. On the average I would say about 4 per cent would be a fair estimate.

Q Am I correct in understanding that if you have four units of stabilizers, it would be sufficient to stabilize 100 units of gunpowder according to these German formulae?

A Yes, as an overall average.

Q Now in this case Document NI-5762 where they list the five technical products which you testified are stabilizers, you will note that the approximate tonnage per month is indicated. The total per month is 472. With a plant production of 472 tons per month of stabilizers being planned for in 1935, how much gunpowder would this production envisage?

A It would envisage a total of approximately 25 times as much or 11,875 tons per month of gunpowder.

Q Do you know what was the amount of explosives and gunpowder per month that was permitted to be produced in Germany prior to 1932?

A Yes, approximately 2,000 tons including both high explosives and gunpowder per month.

Q This estimate of 11,875 tons per month, does that relate to gunpowder alone or does it include high explosives?

A Gunpowder alone.

Q You will note immediately under the technical list of stabilizers a reference to the erection of a plant for the production of aniline and alkylised anilin. Do these products relate to the production of

stabilizers?

A Yes, they are some of the intermediates for stabilizers.

Q With respect to the entire Document NI-5762, is it your opinion that the conference referred to in that document, taking place in August, 1935, related to the planning and construction of standby facilities that had an exclusive war use?

A There can be no doubt of it.

Q I call your attention to NI-4492, Prosecution Exhibit 118, which appears on page 45 in English Document Book 33 and page 43 of the German. This is a memo of a conference in January 1939, with representatives of I.G. and Dr. Zahn of Army Ordnance. I call your attention to item 6 on page 45, page 43 of the German book, which refers to the production of aniline and monoethylaniline for storage at the rate of 100 tons per month. Could you please tell us the significance of this?

A These are stabilizer intermediates. This is a plan to stockpile some of them.

Q Will you please refer to Document NI-4488 on page 42 of English Book 33 and page 39 of the German, Prosecution Exhibit 115. Please note the reference that October 1, 1937 was set as the deadline for the completion of the Wolfen stabilizer plants. What significance do you attach to that fact?

A It would confirm my opinion that this entire plan had to do with military preparation since having stabilizers available is a prerequisite to the production of gunpowder.

Q I refer you to Document NI-711 in Document Book 34, page 1, which is a contract between the Wehrmacht and DAG, Prosecution Exhibit 599. On page 2 and following pages of this document are mentioned various products which were to be manufactured by DAG on the basis of provisional orders given during the period from 19 September 1934 through to 31 August 1938. What is the total of high explosives and gunpowder covered by this contract?

A 4,800 tons per month of high explosives and 1,600 tons per month of nitrocellulose for gunpowder. It should also be noted that a total filling capacity of 6,800 tons per month for bombs is mentioned.

Q Now, will you turn to the next document in Book 34, FI-7772, Prosecution Exhibit 600 which is a contract between the Wehrmacht and the Waseg dated November 7, 1934. What does this cover?

A It covers the establishment of a plant to produce 1,000 tons per month of nitroglycerine gunpowder, but as was shown at top of page 2 of the document, provision is made to use nitrodiglycol instead of nitroglycerine in the gunpowder if necessary.

POISON GAS

Q Mr. Elias, what raw materials were chiefly used to make poison gas?

A Ethylene, ethylene oxide, sodium cyanide, chlorine and sulphur chloride, arsenic, diphenylamine, and others.

Q Ethylene and ethylene oxide you mentioned as being produced chiefly at the synthetic rubber factories.

A Yes.

Q What was the chief poison gas made in the German poison gas program?

A From the point of bulk and planning mustard gas of the ordinary variety, made either from ethylene and sulphur chloride direct, or what was called O mustard gas, that is, mustard gas made from ethylene oxide through oxol, technically called thiodiglycol. Oxol was safe to store as compared with mustard gas and could easily be converted to mustard gas by combination with hydrochloric acid.

Q Were any other varieties of mustard gas produced?

A Yes, two others were developed by Farben - one called "Fisch lost" and one called "F-lost". The first was a mixed mustard gas and the second was a nitrogen containing mustard gas.

Q What other chemical warfare agents were produced?

A A material called Omega Salt which is chemically known as chlor-

acetophenone and is a tear gas, several other materials including phosgene also known as oil F, arsenoel, and others. But the most deadly actually produced in quantity was a series of materials called Tabun. This was produced to the extent of about 12,000 tons. But even a more deadly gas had been developed and a plant was being prepared to produce it. This was called Sarin.

Q In Document Book 33, page 29 of the English and 24 of the German, which is Document FI-5762, offered as Prosecution Exhibit 108, I call your attention to the subject matter dealing with acetophenone under discussion between Farben and the Army Ordnance in August, 1935. Could you please explain what that product is and its use?

A Acetophenone is a chemical compound which has very little peacetime use. Its chief wartime use is for the production of chloracetophenone which is a very important tear gas and apparently experiments to make it were being discussed at this conference. The discussions relate to the most practicable methods by which acetophenone may be produced and the raw materials required for each method.

Q Will you turn again to Document FI-5761, Prosecution Exhibit 109, page 32 of English Book 33 and page 28 of the German book. This is the memorandum of the conference with Dr. Zahn of 19 September 1935, and you will note in the first full paragraph on that page a reference to Omega products. Could you please tell us what that refers to and what the use of the product is?

A I previously mentioned Omega product was the cover name for the tear gas chloracetophenone. This is confirmed by the fact that 9 lines from the bottom of this page chloracetophenone is mentioned, which should be chloracetophenone, and this is the tear gas. It is also confirmed by an affidavit by Dr. Albert Palm, Prosecution Exhibit 655.

Q You will note, Mr. Elias, it is indicated in this document that 20 to 30 tons of this Omega product, which you testified was tear gas, had already been delivered to the Wehrmacht by Farben as of this date,

September 1935. The discussions were particularly concerned with the question as to where and how this tear gas could be produced in larger quantities. You will also note that it is stated that Ter Meer had thought of having the complete manufacturing process performed at Gersthofen but that he was still in doubt as to whether for this small plant the misgivings of the I.G. could be disregarded. In the light of your knowledge of this product and the way it is produced, how do you interpret these points?

* It would be my judgment that two different aspects of this matter entered into Farben's consideration of how and where it should be produced. In the first place because of the toxic nature of any of the gases, it is dangerous to the environment in which it is made and stored. It can not only unfavorably affect the workmen involved in its production, but also if there is any substantial leakage, it might affect any other operation in its vicinity. In the second place, the purpose of tear gas is so clear that if it became known that any firm was engaged in the manufacture of this or similar products, to any substantial extent, its reputation would necessarily be adversely affected.

THE PRESIDENT: The Tribunal will now rise for its noon recess.

(A recess was taken)

AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Gentlemen, may we have your undivided attention for just one moment. In the morning session on September 26 the Tribunal heard considerable discussion with reference to the matter of cross examining the authors of affidavits offered in evidence by the prosecution. At the conclusion of that argument the Tribunal said: "We are not caring for any more argument on this matter. We simply want you to reduce to writing what you think these rules ought to be. The same applies to the prosecution and the dead-line for presenting those is Tuesday morning at the opening session and the Tribunal will just as promptly as possible put the matter at rest at that time." We have been furnished with some 22 pages of argumentative matter but no suggested rules governing this subject. The Tribunal, therefore, makes the following statement for the record:

There seems to be no question about the right of the prosecution to offer evidence in the form of affidavits nor about the right of the defense to cross examine the authors of such affidavits who can be made available for that purpose.

The controversy appears to revolve around the question as to when such cross examination shall take place. When a witness testifies in person the cross examination follows his testimony in chief. It is not practical, however, to follow this rule when affidavits are introduced in evidence. Any delay between the introduction of the affidavit and the cross examination of its author is favorable to the defense since they are advised in advance as to what the evidence is.

The Tribunal rules that the prosecution may produce the authors of its affidavits for cross examination at any time before the prosecution rests its case in chief. The cross examination must be without prejudice to the right of the prosecution to call the author of the affidavit to testify in person as to matters not embraced in his affidavit. Likewise, the defense must be accorded the privilege of calling

the author of an affidavit as its own witness in due course. The prosecution may produce the author of an affidavit for cross examination before all of his affidavits are introduced on the condition that the author shall again be produced for cross examination if additional affidavits are offered after he has once been cross examined.

The defense should indicate to the prosecution within reasonable promptness whether it will desire to cross examine the authors of such affidavits as have been introduced by the prosecution. The prosecution should also advise the defense in advance as to when it expects to produce the authors of affidavits for cross examination.

We trust, gentlemen, that this statement will suffice to put this controversy at rest. The prosecution may proceed with the examination of the witness on the stand.

MR. DUBOIS: Mr. Elias --

DR. PELCKMANN: Your Honor, since --

THE PRESIDENT: Just a moment, please, your name and your client for the record, please.

DR. PELCKMANN: Dr. Pelckmann, counsel for the defendant von Knieriem. Since the decision as to procedure which was just announced is contradictory to the rules of procedure as applied by all other Military Tribunals here in Nurnberg the defense intends to call upon a decision of all of the Tribunals as is provided in Ordinance No. 11. I want to make this statement here and I want to apply to the joint Military Tribunals. I should also reserve the right to make further written statements in the name of the defense.

THE PRESIDENT: Counsel, of course, has recourse to whatever procedure is available to the review of the ruling of this Tribunal. Any other further statement on the part of the Tribunal would not serve any good purpose and counsel is no doubt advised as to the steps to obtain such a review. There is nothing before the Court at this time and the prosecution may proceed with the examination of the witness on the stand.

MR. DUBOIS: Mr. Elias, let's turn now to Document NI-5681. It's in Book 35 on page 50 of the English, page 121 of the German; the contract between Farben through Ambros and Orgacid employing the construction for Orgacid of a plant in Amendorf for ethylene oxide. The contract is dated in August 1935. I call your attention to page 5 of the original and this is a letter from Farben to Orgacid of July 1935 showing that polyglycol M is to be used exclusively for the production of dichlorodimethylsulphide. Will you please explain these two technical terms?

A Polyglycol M is the intermediate. The name is a cover name for the intermediate called Oxol which is an intermediate for mustard gas. The dichlorodimethylsulphide is mustard gas itself.

Q Now, Mr. Elias, could the responsible officials of any chemical firm entering into such a contract and writing such a letter possibly have been ignorant of the fact that they were being instrumental in the production of a deadly gas, useful only in time of war?

A Absolutely not.

Q Let's turn to prosecution exhibit 118 which is NI-4492 on page 45 of Document Book 33 and page 43 of the German. This is a conference in January 1937 between officials of Farben and Zahn of the War Ministry. In paragraph 3 is a reference to an increase in the phosgene capacity to 600 tons per month. What is phosgene?

A Phosgene is a highly reactive compound which may itself be used as a poison gas, also as an intermediate for dyes, and pharmaceuticals, and as an intermediate for other poison gases and for the production of stabilizers for gunpowder.

Q On the next page of this document is a reference to the acetophenone project which you have previously explained is a raw material for tear gas. Now towards the end of this memo, Losantin is referred to. Can you explain this?

A Losantin is the cover name for hypochlorite of lime which is used as a decontaminant for mustard gas attack or after soldiers get

mustard gas on their clothes. This material is used for utilizing the effects after a mustard gas.

Q I refer you to document NI-4493 prosecution exhibit 594 page 57 of the English Book 33 and page 60 of the German. This is a contract between I.G. Farben and OKH regarding stand-by plants. On page 59 there is a reference to the expansion of liquid phosgene production to 600 tons per month and to the construction of filling plants for shells with Oil F. What is Oil F?

oil F is a cover name for phosgene when used as a poison gas.

Q.- Would this document indicate, therefore, there was a plan to use it for this purpose?

A.- It would.

MR. DuBOIS: I call the attention of the Tribunal to the fact that though the paragraph of the contract relating to the expansion of phosgene production to 600 tons was dated in September, 1939, the previous document in which this expansion is planned is dated January, 1937.

Q.- Now, Mr. Elias, I call your attention to NI-4498 on page 44 of Book XXXIII in the English and page 42 in the German, Exhibit 116. This is a note of a conference in January, 1937, between Dr. Wittwer of I.G. and Zahn of Army Ordnance. Under paragraph 1 there is a reference to the Ammendorf plant and the production of certain products. Will you please explain what is being referred to in that paragraph?

A.- That paragraph indicates that Ammendorf was manufacturing ethylene oxide which it had been further processing into thiodiglycol which, as I stated before, is the same as oxol and is an intermediate for mustard gas, not dangerous to store but easy to convert into mustard gas. Ammendorf did not have sufficient storage room for thiodiglycol and, therefore, stopped the production of its ethylene oxide since this is difficult to store also.

This document indicates that Ludwigshafen was to take over the excess ethylene oxide which Ammendorf would not use or store and Ludwigshafen was to use this ethylene oxide to produce diglycol.

Q.- Now I refer to NI-5687 on page 75 of this document book, English, 83 of the German, being a letter in June, 1938, from Ambros to Krauch, Prosecution Exhibit 438. Will you please note at the bottom of the following page 76 of the English and 84 of the German that reference is made to the fact that in the field of ~~research for chemical warfare~~

agents and explosives, industry should do the main job since the real advances in that field should come from industry. In the middle of page 77, the following page, the writer states that "only during the last few months have attempts been made to apply technical advances to the old chemical warfare agents and under the driving force of industry, especially of I.G. Farben to develop new types such as mixed mustard gas and H-mustard gas." Will you tell us what these refer to?

A.- Yes. This document indicates that by June, 1938, Farben had developed two new types of mustard gas, one being the mixed type made from ethylene and propylene oxide and the other being nitrogen mustard gas made from ethylene oxide and ammonia. Both of these are deadly gases obviously for war purposes.

Q.- Now turning to NI-7380 which is on page 81 of the English and 90 of the German, Prosecution Exhibit 597, this is a copy of a letter in May, 1938, from the defendant Ambros to the High Command of the Army. It refers to a discussion which the defendant ter Meer had relating to the construction of chemical plants at Huelo. You will note in the third paragraph reference to a plant which will produce diglycol and oxol and construction of storage facilities for that. You will also note a statement of planning and esterification plant for mustard gas (Direct Lost). Could you please tell us the significance of that?

A.- This also is a plant for making products from ethylene oxide. Diglycol is to be manufactured from ethylene oxide and also oxol, the intermediate for mustard gas. In addition, mustard gas itself is to be made as required, by the installation of the esterification plant which is a plant which will convert the oxol into the finished mustard gas by treatment with hydrochloric acid.

Q.- Turning to the next document, NI-7428, which is on page 84 of the English and 93 of the German, Prosecution Exhibit 217, this is a letter from Krauch to Farben in September 1938 -- it says "August, '38 confirmed on 5 September '38 -- in which Krauch states that the ethylene

experimental plant Sodingen and DL experiments have been classified as pressing by Goering. Could you explain this relation between ethylene and DL experiments and the significance of this?

A.- DL is an abbreviation for Direct Lost, which is the cover name for mustard gas made directly from ethylene instead of through the oxol intermediate.

Q.- Now Document 8841 which is at page 91 of the English and -- I am sorry. This is in a new book, Book XXXV, page 91 of the English Book XXXV, and 93 of the German. Wait a minute, 91 of the English and 172 of the German. I am sorry. Prosecution Exhibit 440, NI-8841. This document is dated June, 1938, and is a summary of a plan for stepping up production of powder, explosives and chemical warfare agents. On the third page is a statement that 5200 tons per month of direct mustard gas planned for could not be produced until the 200 ton per month experimental plant at Huels had been built. Could you explain this?

A.- The direct mustard gas process was not known in Germany or was not well known in Germany, and experimental work was necessary to learn the technique. The process which had been in use in Germany previously was the oxol indirect process.

Q.- The figures indicate a 600 ton capacity on hand with a 200 ton capacity as a reserve at the Ludwigshafen plant. Would this be the oxol process?

A.- It probably would.

Q.- On the next page is stated the fact that 100 tons of Arsinol was on hand as of that date, June, 1938, and a total of 760 tons per month was planned for using arsenic from Austria as one of the raw materials. What is Arsinol?

A.- Arsinol, is made from aniline, chlorine and arsenic. It is the intermediate for two important poison gases called Clark I and Clark II

the latter using cyanide in its synthesis.

Q.- Further on this page is mentioned W-salt. What is this?

A.- It has been referred to before. It is chloracetophenone, the tear gas.

Q.- Evidently 135 tons per month of this capacity was on hand and total planned capacity was 735 tons per month. Now I understand you testified previously that some of this capacity was in Farben plants, is that correct?

A.- I did.

Q.- Now turning next to NI-7379 which is on page 99 of the English and 181 of the German, Prosecution Exhibit 255, 15 August 1938, mention is made of mixed oxol and propylene oxide. What are these?

A.- Mixed oxol was the mixture used to produce the mixed poison gas, the mixed mustard to which I referred previously. Propylene oxide is a product similar to ethylene oxide and the two are mixed in making the particular oxol which produces mixed mustard gas. This mixture is a new development.

Q.- Turning now to NI-7431 which is on page 111 of the English and 193 of the German, this is a letter from Krauch to Farben in February, 1939, on the subject of ethylene chemistry. Krauch states in the last two lines on the page that the oxidation of ethylene with air appears to be of special significance and asks that Farben examine the possibility of setting up a plant for the production of D-mustard gas of a size equivalent to that of a plant producing 15,000 tons of ethylene per year. Can you explain this?

A.- The oxidation of ethylene referred to is a process developed originally in France in which ethylene is directly oxidized with air to ethylene oxide. The German process uses chlorine in producing the ethylene oxide. This would have some significance in the fact that ethylene oxide was a raw material for so many of these strategic products, mustard

gas, diglycol for explosives, etc. Of course, in addition, from this raw material antifreeze is produced which was strategically important in planes and other vehicles. I noticed in this document that Krauch also suggested a plant for the hydrogenation of acetylene to ethylene. This was to produce the ethylene required for the direct mustard gas.

Q.- Now going to the next document in the book, NI-7422 -- it is Exhibit 635 -- it is a letter from Krauch's office to I.G. Oh, I am sorry, 196 of the German. It names Ambros, Buerger and Haberland and is dated August, 1939. It refers to Perstoff near the bottom of the page. Can you tell us what this is?

A.- Yes; it is a cover name for a poison gas known as diposgene.

Q.- Various calculations are made in this document. Can you tell us what they are all about?

A.- Well, the document planned to produce 200 tons a month in a plant, and an estimate is made of the manpower and the raw material requirements and the costs for this production basing the calculations on the experience Farben gained in its manufacture of this product as Hoechst in World War I.

Q.- Now referring next to NI-6145, which is on page 120 of the English and 206 of the German, Exhibit 636, the contract between the Wehrmacht and Chemische Werke Huels, and on page 121 are listed -- that would be 207 of the German -- various products to be made by Huels according to preliminary instructions given between May, 1938, and June 1940. Can you tell us about the technical aspects of this?

A.- Well, Huels produced acetylene and this was a suitable raw material for the production of ethylene, the calculations show, sufficient for 600 tons per month of diglycol for gunpowder, 600 tons per month of oxol mustard gas and also some raw materials for the production of a thousand tons per month of acetophenone which is the raw material for the chloracetophenone which is a tear gas.

Q.- Now NI-4990, page 132 of this book and 220 of the German, Exhibit 637, is a cover agreement between the Wehrmacht and Farben in August, 1940, to construct a plant at Gendorf for glycerine D, oxol and DL. You told us that oxol and DL are poison gas materials. What is glycerine D?

A.- That is a cover name for diglycol for gunpowder.

Q.- Now Document NI-7425 which is in Document Book XXXVI, page 10 of the English and 11 of the German, is a letter from Kuehne to Ambros in September, 1939, 28 September 1939, stating that he again confirms that Leverkusen will take over the planning, construction and operation of the actual D-mustard gas plant including the production of sulphur chloride from sulphur and chlorine. What is the significance of the reference here to sulphur chloride?

A.- Sulfur chloride is an intermediate in the production of direct mustard gas.

Q.- Now on page 12 of this book, NI-4988, Prosecution Exhibit 355, 13 of the German, this document describes the organization of Luranil, a construction company owned by Farben, one of the purposes of which is stated to be to separate Farben from these projects so far as the outside world is concerned. Now on the first page the Dyrhornfurth plant is mentioned. In your study of this matter what have you found out about the type of plant which this was?

A.- Well, it was a plant to produce an especially dangerous poison gas, called Tabun.

Q.- Document NI-4994 on page 42 of the English and 51 of the German contains an order of 1944 to Farben for the construction of a plant for 500 tons per month of a material called Sarin. What is Sarin?

A.- American investigators reported it to be a very deadly poison gas, much more deadly even than Tabun, which is made with phosphorous and fluorine as two of the raw materials.

Q.- You previously mentioned Tabun prepared at Dyhernfurth. Was this a similar poison gas?

A.- Much more dangerous. Sarin and Tabun were fluoro and cyano phosphates respectively. Sarin was rated by the Germans as six times as effective as Tabun. They were very toxic indeed and very insidious. They possessed practically no odor. They were Germany's main contribution to war gas development in this War.

Q.- Now, Mr. Elias, you have testified that starting in 1933 Farben expanded many of its operations enormously. I call your attention to Document NI-10007. It is in Book XXXII, page 54 of the English. This is a chart — I don't seem to have the German. This is the Prosecution's Exhibit 687. This is the chart showing the investments by Farben year by year in factories for the production of these eighteen commodities. Now, however, this does not include investments in concentrated nitric acid plants and is incomplete in a few other respects. Would you comment briefly on this document, please?

A.- Farben's investments in these fields as shown by the chart at the bottom line climbed tremendously year by year. For 1932 its investments were only 4,901,000 Reichsmarks. They more than doubled in 1933, and in 1938, 225,238,000 Reichsmark were invested, or forty-five times the investment in 1932. By 1944 this had jumped up to 411,610,000 Reichsmark or about eighty times the 1932 investment. The total investment in these products alone during the years 1932 to 1944 is shown as about two and a half billion Reichsmark.

Q.- Now will you please comment on what such an investment in these chemical processes would mean in a physical and engineering sense?

A.- Such a program would mean an enormous strain on the whole economy. It would mean a drain on the coal and steel industry, on the labor supply. The only activity with which I can compare this period is a period in the United States directly after Pearl Harbor.

Q.- Now, Mr. Elias, you have testified concerning various aspects of Farben's production program during the years particularly from 1933 to 1939. Now, viewing all of this as a whole, in the light of your experience, would you briefly give your reaction as to its total significance?

A.- Well, I have followed the technological accomplishments of I.G. Farben and its predecessor companies for a period of over thirty years. These achievements have been known to chemists and chemical engineers everywhere. The defendants in the dock include men whose names are familiar wherever any chemistry is known. These men by the evidence of their professional accomplishments represent the best brains in Germany.

Basing my opinion entirely on the technologic evidence in the documents which I have read, it seems clear that in 1933 approaches were made in each case through military channels for expansion of synthetic fuels, synthetic rubber and magnesium. The beginning of the expansion of explosives production also started in 1933. It is possible that at that time there was no thought that this expansion was inevitably headed for war. Perhaps this collaboration with the Wehrmacht merely seemed a business technique for the achievement of great power, but the picture in 1934 and 1935 became much clearer.

THE PRESIDENT: Counsel, I think you had better ask another question. It occurs to the Tribunal that the testimony of this witness is out of the field of expert testimony and is the expression of opinion as to matters which ultimately will have to be passed upon by this Tribunal. May I suggest another question, please?

Mr. DuBOIS: Well, let me just ask this question.

BY Mr. DuBOIS:

Q.- In summarizing the significance of this program which you have reviewed, the defendant von Schnitzler has stated as follows:

"Even without being directly informed that the Government intended to wage war, it was impossible for officials of I.G. or any other industrialists to believe that the enormous production of armaments and preparation for war starting from the coming into power of Hitler, accelerated in 1936 and reaching unbelievable proportions in 1938, could have any other meaning but that Hitler and the Nazi Government intended to wage war come what may."

Now on the basis of your experience, in view of what you know about what Farben was doing between 1933 and 1939, have you any comment to make on this statement of the defendant von Schnitzler?

A.- Only that I agree —

THE PRESIDENT: Just a moment. Just a moment, please.

THE WITNESS: Yes.

DR. ROSPATT: Dr. Rospatt, counsel for the defendant Professor Dr. Krauch.

For the very same reasons for which the President didn't admit the previous question I ask you not to admit the present question. The technical witness here is being asked to make a judgment regarding legal questions about which the Tribunal itself would have to decide.

THE PRESIDENT: The objection is sustained.

Mr. DuBOIS: No further questions. The Prosecution is finished with this witness.

THE PRESIDENT: The Defense may proceed with the cross-examination of the witness.

DR. DRISCHEL: Dr. Drischel, counsel for the defendant Dr. Ambros.

Mr. President, there are a number of chemical technical questions and events before us, the treatment of which can only be successful in cross-examination if those questions are put to the witness by experts. According to an agreement made with the Prosecution, we should, therefore

like to ask you that in this case, too, as in the case of the expert witness, General Morgan, the Defense be permitted to call upon the chemical technical gentlemen in the dock in order for them to put the questions to the witness. Of course, they will not be witnesses in their own case, but as it was emphasized by the President, at the time, they would only put the questions in order to alleviate the questioning. Three gentlemen have been chosen who will speak on behalf of the various spheres, Dr. Bostofish in cases of questions of raw materials, Dr. Ambros for questions of intermediates and Dr. Ter Meer for questions which are connected with these two spheres.

With your permission, Mr. President, the Defense would like to start the cross examination with this aim in mind.

THE PRESIDENT: Is it the understanding of the Tribunal that the cross-examination of this witness will be handled by the three named defendants rather than by counsel if permission is granted?

DR. DRISCHEL: The questions will naturally be put by the defendants in the presence of their defense counsel.

THE PRESIDENT: The Tribunal has no objection to a witness being cross examined by a defendant, and will permit that to be done. We do feel, however, that it is necessary for the Tribunal to admonish the defendants who will cross examine the witness, and their respective counsel, that it will be necessary to restrict the cross-examination to the same extent as if it was conducted by counsel. Conceding that the defendants may be experts in scientific lines, we cannot be assured as to how familiar they may be with legal procedure. We shall therefore expect the cooperation of their respective counsel in restricting the cross examination to the proper field.

With your helpfulness in that respect, you may proceed to call from the dock whatever defendant you have in mind first to cross examine this witness.

DR. DRISCHEL: That is exactly what I understand, Mr. President, thank you. Mr. Buetevisch.

THE PRESIDENT: In order that the record may disclose the proceedings, we will ask the defendant about to interrogate the witness, to first state his name for the record.

MR. BUETEVISCH.

THE PRESIDENT: You may proceed.

CROSS EXAMINATION BY MR. BUETEVISCH:

Q. Witness, if we understand you correctly, during your statements you made this morning, you first created basic chemistry as it arises from coal; is that correct?

A. Yes.

Q. Whilst doing that, you first started with the synthesis of nitrogen and in that connection I should like to put the question to

you whether in the case of the process with synthetic nitrogen, you are also acquainted with another process, - the so-called Arr process, which is used with air, hydrogen, etc.,?

A. I know of that, yes.

Q. In addition, do you know that this process was used to a large extent in Norway on a technical scale, and that the so-called Norge nitric acid was produced and then transferred into commercial lines?

A. Yes.

Q. In that case, I understood you to say that in addition to the chili salpeter, ammonia, the nitrogen of lime and the Norge or Arc Salpeter was already on the market before the synthesis of the nitrogen according to Haber-Bosch was carried out; is that true?

A. That is correct.

Q. Do you know also that after the synthetic nitrogen process according to Haber-Bosch had been introduced in Germany also other European countries started to erect their own nitrogen factories?

A. Yes.

Q. I am sure that you also know that in England, France, Belgium, Holland, Italy, Poland, and in a number of other countries, the nitrogen capacity, - that is to say, the production of nitrogen in those countries, - had been extended to a degree that even in the 1930's and partly already at the end of the 1920's, they could already cover their own consumption of nitrogen; do you know that?

A. In a general way that is true.

Q. Furthermore, do you know that in those countries, - I am particularly referring to England, France, Belgium, Holland, Italy and Poland, - the capacity went far beyond their own consumption, and that there were capacities beyond what they needed themselves?

A. I do not know of those statistics; that may be true.

Q. Do you also know that in the United States of America the

synthetic nitrogen production from the year 1928 to '29 up to the years 1937 to 1938, extended considerably, so far as we know, - and I am in particular referring to Hopville, in California, where this increase was carried out?

A. Yes, there was an increase.

Q. Now witness, let me put the following question to you. Why was this nitrogen capacity exploited up to 80 to 90 per cent?

I assume that you know that it was used for fertilizing purposes up to that percentage.

A. A very large percentage was used for that purpose.

Q. Do you know that in addition 10 or 20 per cent was used for technical purposes, - technical nitrogen?

A. I do not know the exact percentage but that is not unreasonable.

Q. I am in complete agreement with you. It differs in the different countries according to the industry of the respective country; that is true isn't it?

A. Yes.

Q. Do you know that the production of fertilizer nitrogen was carried out by combining the ammonia nitrogen with oxygen with oxygen or phosphate, nitric acid, hydrochloric acid and in this manner the corresponding substances were produced, which then were available to agriculture; is that true?

A. Yes, that's correct.

Q. In that case, fertilizer nitrogen used sulphur acid and nitric acid to a great extent; is that true?

A. That's correct.

Q. Perhaps the laymen may say that ammonia represents the dangerous substance from which explosives are being produced; but if I understand you correctly, you said that in order to produce explosives, one has to have a certain combination of the nitrogen, one needs nitric

acid in order that it then be converted into explosives after another few substances have been added; that was my direct understanding?

A. Concentrated nitric acid.

Q. Concentrated nitric acid; and ammonia therefore cannot be made synonymous with nitric acid? and certainly not with highly concentrated nitric acid; that is true, is it not?

A. It cannot be made synonymous, that is true. On the other hand, the relation between highly concentrated nitric and ammonia in the preparatory period is very important, because that relation parallels the production of explosives, so that the two curves are almost paralleled with one another.

Q. Then let me state one thing. You said that the production of nitric acid goes along together with the production of nitrogen; at first we stated that the nitric acid which is used for production of fertilizer is certainly not the same highly concentrated nitric acid which is used for explosives; that is true is it not?

A. That is true.

Q. Do you know that in order to gain highly concentrated nitric acid from diluted nitric acid, very complicated equipment is necessary; I want to ask you whether it is correct that in order to bring about this concentration, one needs very sensitive apparatus consisting of special material or one needs compression chambers, in order to derive the highly concentrated nitric acid; in other words, very complicated equipment; you certainly know that? I merely wanted to ask you whether we are in agreement?

A. That is true.

Q. Then let me put another question to you. The technical nitrogen, as such, which whenever ammonia is being produced, comes up as an entity, is also used for other purposes; for instance, nitric acid, as such, is used for nitration in organic chemistry generally; is that true?

A. That's true.

Q. Furthermore, highly concentrated nitric acid is also used in technology for the Plastics Industry, celluloid industry, for films, for paints, etc? Always an abundance of highly concentrated nitric acid must be produced according to the consumption of the country in order to satisfy its needs; that is true, is it not?

A. That is true, except that the production for peacetime needs of concentrated nitric acid were excluded from the figures that I gave. Those uses stayed constant during the whole period of this rearmament. If I remember correctly, it was about 5000 tons per month.

Q. In that case, let me confirm whether you meant the state plants which were outside of private industry; is that correct?

A. No, I meant all peacetime uses of concentrated nitric ; the figures which I gave were the concentrated nitric used specifically for military uses, namely for the production of explosives.

Q. Certainly, if I am informed correctly, you used the chart of Struss as your basis, didn't you?

A. No, the Struss chart does not give concentrated nitric acid figures. Those figures were obtained from the United States Strategic Bombing Survey.

Q. Let me ask you one more thing. Let me pass from the nitrogen synthesis over to the methanol synthesis which I think you treated this morning as the second high pressure synthesis. If I remember correctly, you stated that the methanol synthesis similarly to the nitrogen synthesis, was developed out of carbon dioxide, and hydrogen under high pressure; is that true?

A. Yes, that is correct.

Q. Do you know that methanol was to a small extent, gained in Germany through Charcoal burning?

A. That's true, yes.

Q. And in the United States, because of the larger amount of timber, a great amount of methanol was used through charcoal burning is that true?

A. That 's correct.

Q. This morning, you mentioned that methanol was the point of departure for explosives; is that true?

A. That is true.

Q. If I understood you correctly, you furthermore mentioned that methanol had been a very important peacetime product, used mainly for the production of plastics, and that methanol found a great use in the United States as Anti-Freeze, and was furthermore used for solvents for other parts of the chemical industry; did I understand you correctly?

A. That is correct.

Q. As you stated before, quoting figures, the continuous increase of the methanol production came about in all industrial countries as well as in Germany, you stated, using the chart, and I think you based yourself on Struss charts, - that in the year of 1938, 80,000 tons of methanol were produced; that is a correct figure is it not?

A. I think so; I do not remember it exactly.

Q. Do you know that the United States experienced the very same development in the field of methanol, and that almost simultaneously the synthetic methanol production was started by, I think du Pont, and was increased to a considerable extent for economical consumption; is that correct?

A. Yes, that is correct, but it was used for peacetime purposes.

Q. Do you know whether methanol in peacetime was used for the production of explosives by our own production?

A. From the documents which I have seen there is indication that hexogen was intensively experimented with and worked on from the year 1935 in I.G.

Q. You just said that it was used for experimental purposes, but you cannot see from the documents whether anything was actually

produced, if I understand you correctly.

A. Do you have the number of the document?

Q. Perhaps the other gentleman has it.

Let me state one thing, so far as I can survey the document, we only find the methanol production mentioned as such, and not the use of it. What I asked you was, whether you can deduce from the documents, or from your other knowledge, that we in producing methanol made it available for the production of explosives, apart from small experiments?

A. The document as I remember it, was a contract for the production of hexogen, by a process developed by I.G., and the preamble of that contract stated that this process had been developed in 1935. Now the contract itself, I think was dated later. It may have been dated 1939 or 1940.

Q. Let me ask you whether this is your only clue for your assumption that we used methanol in peacetime for the production of explosives?

A. No, I think that the general indication of the chart is that it was used for other things besides hexogen; it was also used in the production of pentaerithritol, for nitropenta explosives.

Q. If I understood you correctly, we would have to have a document which would show how methanol was divided into plastics, explosives, etc., but I personally have not found that document.

A. Document 6239 is the chart which was prepared showing the interlocking of raw materials for the production of powder, explosives and preliminary products. This is a German chart, translated.

Q. Have you got the exhibit number there?

A. 6239 is the NI number.

DR. BUETEFISCH: Mr. President, may I continue, and revert to this matter later, until such time as the number is found?

THE PRESIDENT: Yes, you may do that.
11405

BY DR. BUETEFISCH:

Q. Witness, do you know that apart from that, the United States produced other kinds of alcohols, propyl alcohols and methyl alcohols, and other types of alcohols?

A. Yes, that is true.

Q. Then let me pass on to the third high pressure synthesis; you dealt with that this morning. It concerns the Hydrogenation of coal and oils through the use of hydrogen, the so-called hydrogenation process. Do you know that in the United States, and I think that was at the same time, from the years of 1925 to 1927, a number of institutes started research on these matters, for instance, Pittsburgh?

A. Yes, on a small scale.

Q. Do you know whether in September of the year 1926, the Federal Oil Conservation Board established a committee composed of under secretaries of War, Navy, Commerce, etc., and sent a report to President Coolidge in which it was stated that the United States only had oil stocks lasting for 16 years? This became known to us in Germany through the press and other sources, and I want to ask you whether you knew about it?

A. There were reports of that sort every five years; there have been for the past 30 years.

Q. Did you know that the hydrogenation of coal and heavy oils brought up a huge number of technical problems which were then dealt with by the I.G. in collaboration with Standard Oil of the United States?

A. I do.



Q I may say that especially the research on hydrogen in automotive capacities was carried on by the United States and that the situation came about that the hydrogenation process was also used in the case of heavy oils in order to improve gasoline. Is that true?

A Yes, some hydrogenation was used but on a minor scale.

Q As you explained in detail this morning, the United States discovered that ordinary gasoline which originates from petroleum refineries in view of the increasing demands of higher type of motors, was no longer sufficient and it was attempted that the quality of these gasolines increasingly improved. Did I understand you correctly?

A That is correct.

Q These improvements, if I understood you correctly, were brought about by selecting gasolines from the abundance of the gasoline available in the United States or by improving them by special additional substances, for instance, lead tetra-ethyl. Did I understand you correctly?

A That is correct.

Q Then you went on to say that in Germany, by the hydrogenation of coals and tars, gasolines were gained which, influenced by that process, could be adjusted to certain properties. Did I understand you correctly?

A I don't understand what process you are talking about.

Q I am speaking about the hydrogenation process.

A Well, I still don't understand the question.

Q What I asked you was the following: Are you of the opinion that through hydrogenation gasolines, and I mean gasolines which you would consider to be good gasolines, can be produced?

A From what raw material?

Q From Tar, coals, heavy oils, hard coal.

A Yes, a fair gasoline can be produced that way.

Q Very well. Now, if I remember correctly, United States researchers, like McAllister, Bartlev, and Egloff pointed out in time that these gasolines were no longer sufficient for engines under high compression and they pointed out that high grades gasoline can be gained through polymerization of unsaturated gases. Did I understand you correctly?

A That is correct.

Q These gases, if I remember correctly, were designated as special aviation gasolines. I can remember that Egloff, in his book, of the year 1936, writes - and let me state it in English: "Polymerization of gas into gasoline has gone into commercial use in the years of 1935 and part of these gasses can be converted into motor fuel of an octane rating of 200." Does that approximately represent the development as it was carried out in the United States?

A That sounds as though it may be so, yes.

Q Let me just put to you that this was not a secret development but was well-known throughout the world.

A That is correct.

Q You stated that in Germany too the I.G. endeavored to arrive at iso octane, as this substance is called, in view of these facts, and that already in the years of 1932 and 1933 and in the subsequent years you carried out this synthesis of the octane. If I understood you correctly, the I.G. having no crack gases at their disposal, could only do that through alcohol. Is that true?

A That is correct.

Q The I.G. carried out these experiments to a small extent and according to the documents which you submitted we saw we produced a thousand litres per day in Ludwigshafen.

You went on to say that iso octane -- and you are basing yourself on the document -- was produced in Waldenburg to a large extent. It was MI-5931. Do you know whether this installation was ever built in order to produce iso octane at Waldenburg?

A I do not have the document here regarding Waldenburg. What was the number that you just mentioned?

Q 5931, Exhibit No. 523.

A That is a document which is a letter to the Reich Air Ministry, as I see it, regarding the new lubricating oil and iso octane. That would seem to me to give a military connotation, whereas the materials which we produced in the United States were produced for the general increase of motor fuel use and aviation for peaceful purposes.

Q Do you know that the Ministry of Aviation in Germany was in charge of the civilian, as well as the military, air force in Germany?

A I do not know that. It doesn't sound reasonable to me.

Q We shall come back to that at a later time. Do you know how high the production of high octane fuels was at the end of 1938 in the United States of America?

A Unquestionably very large.

Q Thank you very much. It is your point of view, it is not that in Germany, according to your technical explanation, it was possible, up until the year of 1938 or 1939, that a great number of iso octane could have been produced from carbon dioxide and hydrogen? Is that true?

A I didn't quite get that. Will you repeat your question, please?

Q It is your point of view, is it not that theoretically, from carbon dioxide and hydrogen, could have produced large amounts of iso octane in Germany?

A No, I don't think so. Your iso butinol was only obtained in relatively small yield from your methanol process, so that it would have been impracticable for you to have produced a great deal of that material in the earlier stages. It would have been much too expensive, as I think I pointed out.

Q You say quite rightly that it would have been far too expensive. But I meant to ask you really whether it was technically possible. Is that your opinion?

A Theoretically so, but not to any practical degree.

Q Let me ask you one thing. Do you know that this oil isobutyl in its synthesis can be gained in a greater concentration through the so-called recovery process? Do you know that process at all?

A The recovery of what?

Q It is the backward circulation process. I think it is a technical explanation: the methanol and the high graded alcohols are being circulated and then, according to equilibrium principle of this process, a certain gain of isobutyl oil comes about. I don't know whether you are acquainted with this special type of process.

A Well, I fear there would still be a considerable excess of methanol and other things to be disposed of, would there not?

Q No. If I bring back the methanol through backward circulation then, according to the conditions of equilibrium, we are not forming new methanols, but we are only creating the iso-butyl oil, I don't know whether you are acquainted with that. Do you know that?

A I understand it might be possible that way.

THE PRESIDENT: The Tribunal will observe that this examination is getting quite far afield. So far as our knowledge of chemistry is concerned and I think this would be an appropriate time for us to rise for a little rest.

THE MARSHAL: The court will be in recess until 3:15.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. REINTGES: I ask for permission for the defendant Euetefisch to finish his cross examination.

THE PRESIDENT: The defendant may continue the cross examination.

BY DR. EUETEFISCH:

Q. Witness, I have only a few brief questions on the field of raw materials. I should like to ask you whether it is true up to about 1930 special lubricating oils which you spoke about in some detail were produced almost exclusively from petroleum. Is that true?

A. Yes, that's true.

Q. The first synthetic lubricating oils according to your statement were produced in America and I believe almost simultaneously in Germany, as you said, by cracking paraffin and polymerisation to suitable lubricating oils. This was developed to a considerable extent in America. Is that true.

A. Yes, it was developed in the United States.

Q. Then you said that in Germany synthetic lubricating oils were also produced. Do you know that the majority of the synthetic lubricating oils were produced according to this process, paraffin cracking, by Standard Oil, by Shell and by Vacuum Oil in Germany in special plants?

A. I didn't quite understand. What is that? By cracking petroleum?

Q. Paraffin.

A. That may be true.

Q. You said then it may be true that synthetic lubricating oils were produced in Germany by Standard, Shell, Vacuum and do you also know that a similar synthetic lubricating oil procedure was developed by Ruhr Oil or Ruhr Synthesis?

A. That may be true; I don't know.

Q. Referring to a document you said that the synthetic lubricating oils in Germany were all produced by I.G. Farben. I assume that you are referring to an affidavit of Mr. Struss?

A. That is one source, yes.

Q. I just said that other places for example, Standard, Shell and Vacuum produced this material and if I understood you correctly you said that might be true but you did not know?

A. Yes, but I would like to know what the raw material that you say was used was in these plants? Was it from Ethylene?

Q. In any case from olefines.

A. Very well.

Q. And do you know that in Germany special improvement components were produced by the I.G. for improve lubricating oils and that they were exploited to a large extent in America because of our contracts?

A. I know that there were improvements developed in addition products for lubricating oil in Germany by I.G.

Q. Do you know in which factories or rather do you know that these substances were produced primarily in America in BW and at Baton Rouge?

A. That may be.

Q. You said, and I believe I understood you correctly, that the I.G. synthesized lubricating oil via ethylene and olefines.

A. That is correct.

Q. Now I believe we come to the basic raw material of organic chemistry that is ethylene, and I believe it is correct that enormous quantities of ethylene were available especially in the crack gases of the oil industry. Is that correct?

A. Yes, but where do you mean, in Germany?

Q. In America and that in Germany of course because there were only a few refineries and small quantities of petroleum there was little ethylene from refineries. Is that correct?

A. Correct.

Q. Thank you.

DR. REINTJES (For defendant Buetefleisch):

Q. I have a few questions concerning two documents. These are

Exhibit 591, that is Document NI 6339 which is in Document Book 35, page 117 in the German. I am sorry but I do not know the page in the English. This is the document which you, witness, just mentioned.

THE PRESIDENT: Pardon me counsel, the Tribunal observes the defendant Ambros standing. Perhaps he is next to question the witness and defendant may sit temporarily at counsel table until we are ready for him. You may proceed counsel.

BY DR. REINTGES:

Q. This document gives the production process in the production of explosives and the document indicates perhaps as the witness explained to us this morning from methanol explosives can be produced. Witness, can you tell from this document whether explosives, actually were made from methanol and to what extent? I assume that you cannot tell this because the document merely shows the process?

A. I cannot from this document.

Q: And another indication of the extent methanol was actually used for the production of explosives you do not have I believe?

A: The extent? Yes, I read an extract from the document into my testimony which indicated a very substantial extent for the use of methanol in explosives.

Q: Can you tell us what this document is?

A: Yes, it is from the Strategic Bombing Survey.

Q: Does it indicate at what period explosives were made from methanol. I assume this document refers to production during the war.

A: Yes, it refers to production in 1944 and it says that 36 per cent of the total synthetic ammonia and 41 per cent of the methanol went into the production of explosives and propellants.

Q: It refers to the year 1944. Well, then, another question: This concerns Document 523. That is NI 5931. This is a letter of the I.G. to the Reich Ministry for Aviation. In connection with this document it has just been stated that the Reich Ministry for Aviation was in charge of civilian as well as Military aviation. This morning you referred to this document. It says that the production of iso-octane was a very expensive procedure but it could not be rejected for the reason of being uneconomical. I should like to ask you whether you know that Germany was in extremely great difficulties in regard to foreign exchange from about 1930 on.

A: I presume so. That is not a technical question.

Q: The reason I asked this question will be seen from the further questions. Do you know that because of these difficulties with regard to foreign exchange uneconomical and expensive production processes were sometimes used in 1944?

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A: I presume so. That is not a technical question.

Q: The reason I asked this question will be seen from the further questions. Do you know that because of these difficulties with regard to foreign exchange uneconomical and expensive production processes were sometimes used in

Germany in order to avoid importing products, and thus to save foreign currency?

A: I have observed that that has occurred in a number of these industries. It might have some justification in the case of this document if it weren't for the peculiar co-incidence that one month previous to this document's date, Goering had proclaimed the reconstitution of the military airfleet.

Q: I should like to limit myself to the conclusions which you drew this morning from this document. You said that since this concerned discussions with the Reich Aviation Ministry and since production was to be built up without regard to production costs you thought you could conclude that this production was exclusively for military purposes. If you now consider that the Reich Aviation Ministry was in charge of civilian as well as military aviation and that because of Germany's foreign exchange situation uneconomical production was carried out in many cases you then will find in this document good reason to assume that this production was intended only for military purposes?

A: Is that a question?

Q: Yes. I am asking you whether considering these facts you still see any compelling reason in this document to believe that the production which it speaks of was necessarily for military purposes?

A: Yes I do. If there was a shortage of foreign exchange, if there were all these difficulties in Germany, the production of iso-octane at such a stage, seems to be a highly unnecessary luxury.

Q: But you said that you had discovered in general iso-octane was necessary for high octane gasoline?

A: Yes, but the circumstances of this document are such that I am not convinced that it was for anything but military purposes.

Q: But this is a personal conclusion of your own?

A: I would say it is from the documents.

Q: From what part of the document do you think you see this?

A: From the statement that regardless of price this stuff will be produced. From the fact that it is to the Reich Air Ministry and even though they dealt with civilians they also dealt with the military.

Q: You believe that the foreign exchange difficulties were not an adequate reason?

A: I do not think so; not a sufficient reason.

Q: Thank you.

BY DR. DRISCHEL (For the defendant Ambros):

Mr. President, we now come to another field of technical questions to be put to the expert and to simplify the cross-examination I have taken the liberty of preparing two sketches which I do not intend to offer as exhibits but merely for illustration and to facilitate the examination.

THE PRESIDENT: Counsel may use his judgment about whether or not this paper is introduced in evidence but in order that there may not be a lapse in the record and uncertainty in the future as to those who might examine it as to what was referred to, the Tribunal would suggest that you have this numbered or lettered and identified so it will be available for the purposes of the record in the future. Then you may afterwards determine for yourself whether you wish it in evidence.

DR. DRISCHEL: Thank you for this suggestion, Mr. President. I, of course, agree that it be given a number today

and later it may be admitted in evidence.

THE PRESIDENT: We are not pressing you about admitting this in evidence.

DR. DRISCHEL: Then it will be Ambros No. 1.

THE PRESIDENT: Then will you see at the proper time that the Secretary is furnished with a copy so numbered and you may proceed.

BY DR. DRISCHEL:

Q: Picture No. 1, Mr. President and witness, is the so-called "Benzol tree," a picture which shows the interconnections in that classical field of aromatic chemistry the Benzene derivatives. Is this clear to understand?

A: Yes.

Q: Picture No. 2 shows the Ethylene tree which shows modern chemistry as it was developed for example by the Union Carbide Chemical Company in the United States and I.G. in Germany simultaneously. Do you understand this one too?

A: I do.

Dr. D. ischel: Then, Mr. President, on the individual questions arising from these two charts, I should like to have Dr. Ambros examine the witness.

THE PRESIDENT: The defendant Ambros may proceed with the cross examination of the witness.

DR. AMBROS: Your Honors, Dr. Ambros.

BY DR. AMBROS:

Q Dr. Elias, on the first picture, "benzene tree," is it in general outline correct, that in the last analysis from coal we derive benzene, toluene, naphthalene and anthracene; and then, by a special process in the chemistry of intermediate sulphonation, chlorination and nitration?

You emphasized by way of introduction that you were an expert in the field of intermediates so that I have the pleasure of examining you on your own field.

This tree is supposed to show that, from these intermediates, one can make dye stuffs for paper, textiles dyes, for pigments; that also one can make pharmaceuticals and the famous sulfa drugs, the much-asked-for nylons, perfumes, bakelite, tanning agents, even vitamins and hormones. Is that correct?

A Yes, that is correct.

Q I should like to draw your attention to this lower branch at the left. It says here "Intermediates". There are two arrows, one to dye stuffs, the other to explosives. The whole chart is right, is it?

A I think so.

Q Dr. Elias, is it correct that by nitration of toluene one obtains an intermediate product which, if produced under normal, peace time conditions can be used for the production of dyestuffs and if there are disturbed times or if the state demands it, this same material can be used to produce explosives?

A That is correct.

Q Speaking as a chemist to another chemist, may I give two examples? Is it true, for example, that dinitrotoluene, if reduced to diamene, in a dyes factory becomes an intermediate for brown leather dyes; but if the producer sends the dinitrotoluene to an explosives factory, and if he nitrates it further, he obtains the dangerous trinitrotoluene which you have mentioned, TNT. Is that true?

A That is correct.

Q Then by the same process it can take either one direction or the other, to put it simply, and is it true, Dr. Elias, that in the production of TNT there are two distinct steps: the completely harmless production of the intermediate dinitrotoluene, which can be produced in any of the older dye factories; and, second, the dangerous explosive which is carried out far away from human settlement protected by banks of earth, hidden in the woods?

A Yes, that is true.

Q Dr. Elias, this morning you mentioned diphenylamine. Is it true that this well-known old substance can be changed by a certain process to methanyl yellow?

A Yes, that is true of practical every organic compound there is. You can change it to something else.

Q Thank you. Now, if we take the same substance and mix it with sulphur do you remember that thianthrene can be made from it?

A Yes, that is possible.

Q And hundreds of tons of this substance have been dropped by American, English and German planes over swamps to kill mosquito larvae?

A I don't think a great deal of that material has been used for a long time for killing mosquitoes.

Q Now, if the peaceful times disappear do you know that diphenylamine is a stabilizer for gunpowder?

A That is correct.

A That is correct.

Q Without being changed at all the produce is taken and used for stabilizer?

A That is correct.

Q Do I remember correctly that you said this morning that if times get even worse, if war breaks out, there are people who put arsenic with it and this makes poison gas? I believe it was called Adamsite after the American inventor?

A I think so.

Q This example shows that one raw material varies in four sections. Does it not show that an absolutely peaceful occupation with a certain chemical problem may lead to the production of materials on account of external events?

A That is right.

Q This procedure which affects the poor chemist here can happen to the I.G. in Germany, can it not? It could happen to a chemist for DuPont in Wilmington; it could happen to the I.C.I. in Batterfield or in Villiers, St. Paul. Isn't that right?

A I don't understand what can happen.

MR. DUNN: I think that the questioning is reaching a point where the examiner is going a little too far in making statements on his own and in testifying more than the witness.

THE PRESIDENT: This is cross examination and, as the Tribunal understands the practice, counsel or one occupying the position of counsel, may assume a state of facts and inquire of the witness whether or not the assumption is correct. The objection is overruled. The cross examination may proceed.

BY DR. AMEROS:

I want to leave aromatic chemistry now, witness. I should like to draw the attention of the Tribunal to the second chart, the "ethylene tree".

Witness, is it correctly put down there? You will find at the bottom five roots which visually demonstrate how this ethylene is developed. At the right: "Cracking of Gases" — American conditions. At the left, "Cracking of Alcohol." That is German or Russian conditions. "From Coke over Gas." Ethylene can be made from that too. Is that done in America?

A Yes.

Q "From "Acetylene plus hydrogen." I believe that is a procedure of I. G. and the next big root: "Electric Arc Cracking of Ethane." Ethylene can be made from that too. Is that done in America?

A Yes.

Q From "Acetylene plus hydrogen." I believe that is a procedure of I.G. and the next big root: "Electric Arc Cracking of Ethane."

That is a procedure which I. G. and Standard Oil developed together in Baton Rouge, Louisiana, for the first time in a technical plant. Have you heard of that?

A Not of that particular process, no.

DR. DRISCHL: Mr. President, I should like to point out that the question before this one has not been answered yet by the witness; the question where the Prosecution objected but, I believe, the witness can answer it briefly with "yes."

Do you remember the question which Dr. Ambros asked?

THE WITNESS: I do not. I asked what it was he was referring to. I wasn't clear on the question.

THE PRESIDENT: We have not here the usual and ordinary facilities for rereading the record without consuming unnecessary time. May the Tribunal suggest to counsel that he remind the defendant of the matter and let the question be asked again.

DR. DRISCHL: I can repeat the question. Dr. Ambros asked you whether every chemist in the world might not be affected by the same

professional fate, that is, in peaceful times, to be working on a certain product and in disturbed times, at the demand of the state or for some other reason, work on high explosives and poison gasses, a very natural development resulting from the profession?

THE WITNESS: It is true only to the extent that his conscience may not interfere with some of the work that he may be asked to do.

DR. DRISCHEL: Thank you.

BY DR. AMBROS:

Q From those roots in the picture there is a big trunk arising. Dr. Elias, did I exaggerate by showing the ethylene tree as strong? Is the picture correct in indicating that ethylene and ethylene oxide have so many branches?

A They are important compounds.

Q I believe it is a big industry in America as well as here. Is it correct in the picture that ethylene goes over into ethylene oxide and that the top of the tree is glycol or, in America, prestene?

A That is correct. That is one of the most important products from ethylene for general volume use.

Q Witness, is it not then a fundamental mistake to assume that the production of ethylene, a priori, must lead to poison gas or do you not agree with me that ethylene was invented for much more useful purposes?

A. Well, I believe that the only use of ethylene is not mustard gas; there are other uses.

Q. And is it not a mistake to assert that ethylene-oxide is used only for the production of diglycol to go into gun powder or poison gas; or on the upper half of the tree on the basis of ethylene-oxide is there not a very interesting and valuable branch of chemistry?

A. What you say is perfectly correct. There are many possible uses for ethylene oxide that are good and peaceful, but I have gotten a considerable proportion of my impression of ethylene chemistry within the recent few months from the documents that I have read here, and document after document talks about diglycol for gun powder, thio-diglycol for mustard gas, and so forth.

Q. Do you consider diglycol poisonous or explosive?

A. Diglycol?

Q. Yes.

A. No, I do not. It's slightly toxic. It cannot be used instead of glycerine in a cosmetic preparation. It's forbidden in the United States for that purpose.

Q. We were more generous. Can you perhaps describe the substance a little--but I believe you have spoken about it already. What is most closely related to diglycol? What is most related to it?

A. Glycerine or glycol would be the nearest compounds.

Q. Would it not be natural, Dr. Elias, that the explosive and gun powder industry in analogy with the work of Nobel, attempted to treat diglycol with nitric acid?

A. That would depend entirely on the scale on which it was done. It would be natural.

Q. Do you happen to know who for the first time made gun powder out of diglycol?

A. I do not.

Q. May I show you a publication? In this publication, I believe you will find, in the first paragraph, that Mr. Rickenbach, at the explosive laboratory of the Bureau of Mines, in collaboration with the men of UCC, for the first time made diglycol dinitrate from diglycol, and from that made gun powder, and if I remember correctly, he emphasizes that this was his invention. Was that correct? Did you find it?

A. This document says he made it and many hundreds of thousands of organic compounds have been made in the laboratory, but I imagine a study of this document would show that he made a few grams of it, or a few ounces of it. It wouldn't mean anything important.

Q. But I think it was important. That was the reason for its being imitated in the world. Doctor, do you know whether chemists don't make something more clever out of diglycol besides gun powder?

A. Yes. Out of diglycol?

Q. Yes.

A. We don't have much use for diglycol in the States that I know of, except as a possible addition for the manufacture of plasticizers or things of that sort, to a modest degree.

Q. Then what do you think that the present production of diglycol in all four zones - even from Gendorf - is used for? You know, do you not, that it's being produced now?

A. It may well be. I do not know that.

Q. Your explanation "plasticizers" "waxes" was right. Now let's go back to the tree. At the right of the top is ethanolamine. Do you know of this compound?

A. Yes, it is --

Q. Do you know what it is used for?

A. Yes. It's a good base for making various wetting agents: soap, and so forth.

Q. Could a chemist understand that a scientist would study this substance in order to try to change it?

A. Yes.

Q. If chlorinated, what happens?

A. Well, that is chlorinated ethanolanene.

Q. Yes, that is what we thought. Do you know the work on Hercules powder, by Keitch Watt, as early as 1934, made this change, treated triethanlanine plus a chlorinating agent?

A. I don't happen to know that paper, no.

Q. I will hand it to you. I merely want to refer to one thing, first of all. In this paper the invention of nitrogen lost in Wilmington, where there are several chemical factories, is described.

DR. DRISCHEL: Mr. President, may I offer the document, as before, merely number it because it was mentioned in the discussion with the expert?

THE PRESIDENT: That may be done; however, it is not necessary. You may hand it to the witness to refresh his recollection without identifying it, but if you expect the Tribunal to look at it, then it should be identified. That is the distinction. You can pass it to the witness to refresh his recollection or as a basis of further cross examination without identifying it at all. But if it is for the eyes of the Tribunal, it should be identified.

DR. DRISCHEL: I think it's important that the Tribunal see it too.

THE PRESIDENT: Then assign it a number.

DR. DRISCHEL: That would be Ambros No. 2.

THE PRESIDENT: I beg your pardon. I believe it should be Ambros No. 3, because you have already given us two of the three documents.

BY DR. AMBROS:

Q. Doctor, have you found the place?

A. Yes, I have it.

Q. I believe he says, "This product is a new type vasicent material to replace mustard gas." Is that right?

A. I see it says here "The action appears analogous to the mustard gas vasicents. Yes. Here again I think the total amount produced runs into a few grams -- certainly not more than an ounce.

Q. I cannot judge how much was made.

The next branch is thiodiglycol. Is that a poison, a poison gas, or an explosive?

A. No, it is mildly toxic, but it is not a deadly poison in itself.

Q. Do you know that this product is also used in textile printing? I had the pleasure of learning that you are an expert in that field.

A. I have heard that that is true.

Q. So that this product again, as I right, has a peacetime market?

A. To a very small extent.

Q. This is right. Now can you explain how from this harmless product mustard gas is made?

A. By esterification with hydrochloric acid.

Q. It is correct to point out that this is a preliminary product made by the dye factories and, on the other hand, in a remote spot without any connection, this esterification is carried out which produces Lost.

A. Yes, that is possible. It is possible that thiodiglycol be made without any war-like implications, that is possible.

Q. I assume that you worked on the report of the United States Strategic Bombing Survey?

A. Yes, with some of the men there -- not officially on that Bombing Survey.

Q. Then I am sure you worked with Colonel Tarr, and perhaps you can answer this question.

A. I did not work with Colonel Tarr.

Q. The question of separation of harmless thiodiglycol from poisonous gas plants, is that correct?

A. I don't quite understand what you're asking.

Q. This is what I am aiming at: a separation, thiodiglycol is produced in one place, and somewhere else— in a remote plant— lost is made. I don't know, Dr. Elias, whether you specifically inspected these plants.

A. I did not.

Q. Then my question is unnecessary. I shall skip these many other branches and go down to the one on the right at the bottom which is sawed off: DL-mustard gas. According to the process developed by another company, can you tell me why America worked on the Levinstein process?

A. I am not prepared to discuss that kind of — it seems to me that question doesn't particularly enter into this matter, does it?

Q. It was contrasted by you: German oxol process and the DL - process, and I can imagine that for clarification would be useful to tell us the chemical reason, and that is why I am so curious.

A. I said nothing about the process of any processes of this type used in the United States. This Levinstein process, that is mentioned here as an English process, as far as I know.

Q. That is right. I want to ask whether there was a technical reason for saving-chlorine-which was decisive, so that in Germany during the war an attempt was made to go over to the English Levinstein process. But as you know, from the report, that was not successful; am I right?

A. Yes, the direct process would save chlorine in the process of making mustard gas.

Q. Now at the left at the bottom there is a very big branch; it's called ethyl benzol and it's subdivided into buna, styrene, polystyrene. Dr. Ter Meer will go into this branch. But there is a little branch at the bottom called acetophenon. This morning acetophenon was mentioned repeatedly; you were asked, did this acetophenon have no other purpose besides the production of tear gas?

A. No, it can be used for other things. I can't say—as I recollect, I didn't say that was the only possible use for acetophenon. It can be used for other things. I simply said that in that document it was evident that it was being planned for the use of chloracetophenon as a tear gas.

Q. Now do you know that atophane, that antitoxine, is made from it?

A. I am not acquainted with that particular drug.

Q. It's a substitute for atophane. Doctor, would you call acetophenon a poisonous gas?

A. No, I said it was the raw material for a tear gas.

Q. Would you call omega salt if chlorinated, a poison gas?

A. Yes, it's a poison gas. It's a tear gas used in war; it has war implications as a tear gas.

Q: Dr, did you know it is used almost daily by the American police? I do not believe that that can be called a poison gas.

A: Not in the quantity that evidently was produced here.

Q: I cannot imagine doctor, I have the latest Chemical Engineering News, Professor Reid's report, he gets a medal here, one of his most important achievements is given here. May I read this?

(Check document: first part of sentence missing)

"Among them are the introduction of chloracetophenone as a lacrimator during World War 1, establishment of the mechanism of esterification of mercaptans,"

A: Is that a question?

Q: I presumed that Professor Reid would not get this medal for a poison gas, and I am still of the opinion that chloracetophenone is not a poison gas.

A: I have called it a tear gas, which is a lacrimator as you stated.

Q: Did I understand correctly, do you intend to limit your characterization of Omega salt as a poison gas?

A: I state again that it is a tear gas, or a lachrymator.

Q: "Tear gas" that is the technical name; but do you want to characterize it as a poison gas, a chemical warfare agent, or do we want to discuss the concept of poison gas?

THE PRESIDENT: The cross-examination should not resolve itself into an argument with the witness. It seems to the Tribunal that he has made his explanation clear, that he denominates this chemical as tear gas. Now if you wish to inquire further as to what he means by "tear gas"

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or something along that line, it would be proper, but this should not resolve itself into an argument with the witness.

You may proceed.

BY DR. DRISCHEL:

Q: Another question. We are no longer dealing with these now. Do you know a chemical compound nitro oxydul, N2O.

A: Yes.

Q: Do you know what it is used for?

A: No, I cannot say off-hand.

Q: Do you know that in text books it says that dentists use it for a minor narcosis?

A: Oh yes, yes. It is in no large industrial use.

Q: But you assume as a chemist that a dentist would use such a gas if it was a poison gas?

A: Well it would depend upon its properties.

BY DR. AMBROS:

Q: Exhibit 272, in the index, it is asserted that this gas is a poison gas, and the Tribunal permitted Dr. Pribilla to make a big question mark there. I believe that this is the moment to liquidate this question mark, and for that reason I take advantage of the opportunity to call the attention of the chemical expert to this exhibit where it is made absolutely clear that from ammonia nitrate, by heating one obtains N8O and this N2O is used for airplane motors, and in America processes, in order to increase their efficiency. Therefore I should like to clarify the question, is this not a mistake, that the harmless N2O, which is called "laughing gas" in Germany is termed a poison gas?

A: Yes, that is correct; laughing gas is not considered a poison gas.

Q: In your profession as a textile expert, I should like

to go on a little further, this exhibit 158, I believe the prosecution has again made a little mistake, which is, of course, quite possible, in our chemistry, the wetting agent, is mentioned in that letter as you know that, Igepon, cardinol, nocal you are familiar with, also with oragepon. It is called an intermediate for poison gas. Dr. Elias, do you consider it possible that from this production which is used as a detergent today, one can make war gases?

A: I think that it is a wetting agent.

Q: Witness, on the basis of your experience with the USPS, you made it quite clear this morning which chemical warfare agents were prepared on each side; did I understand you correctly?

You mentioned phosgner, Clark I, Clark II, arsine oil, - I do not believe you said that in connection with I.G.? Do you know that this was produced by other firms? You mentioned Adamsite and Lost, - you pointed out that novelties were made, e.g. that Nitrogen Lost having just been invented by Keil Watt, and if I remember correctly you mentioned mixed Lost which I shall speak about briefly and above all, you mentioned a new class of substances Tabun and Sarin. Witness, have I presented that correctly?

A: No, you said something about my mentioning what both sides had prepared in poison gas; I mentioned only what had been prepared here.

Q: Excuse me, that is right.

THE PRESIDENT: Just a moment, please. It is time for our recess until tomorrow morning. Will the secretary make sure now that you get into the record, the documents that have been identified as the Exhibits of 1, 2, and 3 of the defendant Ambros, so that we have no confusion on the

record?

Does the prosecution have any announcements to make as to the program for tomorrow, before we recess?

DR. DRISCHEL: Mr. President, may I make a suggestion? I hope you won't take it ill of me, but I would appreciate it if we could continue for half an hour and finish the examination, and we would finish the subject with Dr. Ambros, if you don't mind.

THE PRESIDENT: Ordinarily we would be very happy to grant you that privilege, but it just occurs that the Tribunal has another engagement that will presently be due, and will make it impossible for today, and we will have to recess and we will have to request Dr. Ambros to continue his cross-examination the first thing in the morning. If that is agreeable.

Now Mr. Prosecutor.

MR. SPRECHER: Mr. President, the prosecution will plan tomorrow to go on with several other witnesses, insofar as that is possible, in view of the fact that we have not been able to give the normal notice in some cases. I will come to the names of some of the possible witnesses in just a minute. We would like to give advance notice to the Tribunal and to the defense that they should bring, if they will, Document books 44 through 46 into the Court, and Document book 17, Document book 17 contains the Ilgner affidavit. If we get into difficulty with witnesses, because of the notice, and the fact that we cannot get all of them here in time, we will go on with those document books if that is agreeable.

Now the witness, Hagert, probably will appear very shortly after the conclusion of the testimony of Mr. Elias. Notice had previously been given on him. I think it might

be amended merely to indicate that the scope of that examination will be in connection with all of the affidavits that the witness Hagert has so far given, and those appearing on the memorandum which has been given to both the Tribunal and to the defense counsel.

I served upon the Secretary General this afternoon, notice of the following witnesses in the very near future, and I am merely mentioning these now because it may take a little time for these notices to get to the defense, if I have your permission.

The witness Karl von Heider, the witness Hermann Baessler, the witness Felix Ehrmann, the witness Ernst Engelbertz.

In addition, I shall serve notice as soon as mechanically possible, and as soon as we can make some better arrangements on scheduling, concerning the following witnesses: Max Kuegler, and Lothar Muehse, both of those witnesses, your Honors, were requested by defense counsel at the time the affidavits were introduced. And Guenther Gorr and Hans Wagner. In the case of Hans Wagner, of course, only the last 6 affidavits appearing would come into question, and any matters directly related thereto. He has already been examined and cross-examined concerning the other affidavits listed on the memorandum.

We have no further announcements.

THE PRESIDENT: If there are no further announcements, the Tribunal will recess until nine-thirty tomorrow morning.

(Court recessed at four thirty-five until nine-thirty o'clock, October 1, 1947)

1 October 47-1-1-H-ASH-rutty (Von Schon)

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 1 October 1947, 0930-1630, Justice Shaker, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI. Military Tribunal No. VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please Your Honor, all the defendants are present with the exception of the defendant Wurster who is absent because of illness.

THE PRESIDENT: Gentlemen, the wife of our Associate Justice, Judge Merrill, and the wife of Judge Richman who is a member of Tribunal IV, are still in the hospital at Munich. These judges would like to go down this evening to visit their wives and to avoid the necessity of them driving back to Nurnberg tonight, I should like to inquire if there would be any objection to our convening tomorrow morning at ten O'clock instead of nine-thirty, and then continuing the afternoon session until five O'clock instead of four-thirty. Is there any objection to that procedure? May I ask the prosecution?

MR. DU BOIS: No objection, Your Honor.

DR. BOEFCHER: No objection.

THE PRESIDENT: Thank you, Gentlemen, and that will be the order for tomorrow.

Is there any preliminary matter to be considered before we proceed with the cross examination of the witness on the stand? The President hears none, and the Defense may proceed with the cross examination of the witness.

1 Oct 47-1-2-M-AMH-Putty (Von Schon)

DR. DRISCHL: Dr. Drischel for the defendant Ambros.

Mr. President, may I continue the examination of Dr. Elias through Dr. Ambros?

THE PRESIDENT: That will be agreeable with the Tribunal.

WITNESS ELIAS, a witness, took the stand and testified further as follows:

CROSS EXAMINATION (Continued)

DR. AMBROS: Your Honors, first of all, I should like to apologize. I made a chemical mistake yesterday afternoon.
BY DR. AMBROS:

Q. Witness, my friends noticed that when speaking of the compound of diphenylamine and sulphur, I called it triantre by mistake. It should be thiazin as the book of the Swiss scientist, Karst, states, and so it will be in order, I should like to show it in the book. Moreover, this thiazin is not used to combat mosquitoes themselves but mosquito larvae. After this correction, I should like to continue with the cross examination.

THE PRESIDENT: Very well.

BY DR. AMBROS:

Q. Dr. Elias, at the end of the session yesterday it was stated that the German Army in general had only the same chemical warfare agents as were used in the first World War. I believe I remember that my last question was what was new; is that right?

A. That may be. I don't remember the last question.

Q. The new things were the question of N-Lost, and with the aid of a document -- I believe it is numbered Ambros No. 3 -- I was able to prove that it comes from Calworth at Wilmington. The second question was Mixed Lost, and the third, the new class, Tabun and Sarin.

Witness, do you know that Lost becomes solid at thirteen

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degrees?

A. I don't know the exact temperature at which it
freezed.

Q. I can show it to you in the chemical calendar.
Do you believe it? *

A. I will accept your statement.

Q. What consequences are connected with this physical
constant? That is to say, if a body solidifies at thirteen
degrees, what are the practical consequences?

A. Well, obviously you couldn't use it in cold weather.

Q. It could not be used in the winter time then,
especially not in the East, is that right?

A. I don't see that it makes any difference whether
it is used in the East or the West. As far as I can tell,
it couldn't be used in cold weather, is that right?

Q. That's right. Witness, can one understand the
worries of the military chemist of the OKH who is responsible
for these questions, all the more since it is known that our
Eastern neighbor did not join the Geneva Convention but, on
the other hand, was extremely active in this field? Do
you agree with me that this idea is correct?

MR. DU BOIS: I think this question particularly is
getting a little far afield, and I object to it.

THE PRESIDENT: It perhaps is beyond the scope of
cross-examination, since the cross examination is of necessity
limited to inquiries that are at least related to the test-
imony in chief. The Tribunal shall ask Counsel for the
defendant Ambros to advise him privately of the procedure
in that respect so that he can conform himself so far as
possible to the accepted rules of cross-examination.

BY DR. AMBROS:

Q. Dr. Elias, if you have a simple chemical compound,

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is it true that it is characteristic for such a compound to have a definite melting point?

A. That is true.

Q. Then if one wants to change the melting point, for example, to lower it, one will have to add something to the compound, that is, mix it with a second component. Is that chemically correct?

A. Perfectly true.

Q. Therefore, if one wants to make a Lost which has a lower melting point, one mixes it with a homolog, something which is found in these cases anyhow and it makes a Mixed Lost, is that correct?

A. The technical aspect of that question is perfectly sound. If you want to get a lower melting point, you add something to the material, that is, if you want to get a lower melting mustard gas. The question is the preparation of this material in the period before the War. The technique is sound.

Q. You mean to say on the basis of your evidence that that was done before the War?

A. The development of that product according to these documents was before the War.

Q. Then we understand each other this mental development, this discussion, of how a melting point can be reduced, that was before the War?

A. This technique, yes, was before the War.

Q. Would you agree with me that that is something customary among chemists, something that is learned in the third or fourth semester of studies?

A. Yes, but gunpowder -- any school boy knows how to make a little gunpowder.

Q. I was talking merely about the chemical aspect of

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the question of lowering a melting point.

A. I have a great respect for your chemical knowledge.

Q. Is it true that by this method Lost is diluted, that is, it is made of a poorer quality, so to speak?

A. No, not necessarily. The propylene compound has toxicity as well as the ethylene compound.

Q. But, Doctor, if I put one carbon atom more in, is that not a diluting effect?

A. Not necessarily. That would depend on the tests. I know many compounds with more carbon atoms which are more toxic than those with less carbon atoms.

Q. Doctor, do you know how the English solved the Winter-Lost problem?

A. I haven't had the same occasion to investigate the English chemical industry.

Q. I should like to go on to another class, Tabun and Sarin. Witness, since you have been on various American Army commissions, I am sure you know the constitution of Tabun.

A. I have a general knowledge of it but not a specific knowledge.

Q. You mentioned Sarin yesterday as a compound of phosphorus and flubrine.

A. That is correct.

Q. Witness, is it correct that in countries outside of Germany, that is to say, in England and in America, too, the production of types of this new class was worked on?

A. That I can't answer.

Q. Do you know from American literature after the end of the War of a war gas which is equal if not better than those of Germany, Tabun and even Sarin? I think I am translating correctly -- as good if not better than German super-gas was supposed to be.

A. That may be true; I don't know.

Q. Witness, is it correct that all German war gases were stopped by the customary masks, that is to say, the mask absorbed them?

A. Well, I gather that the masks did not absorb Tabun and Sarin from some of the reports I have seen.

Q. I should like to give you the passage in literature which says, "It is a fact that the mask issued to each American soldier is effective against all gases which were found in Germany."

Do you understand me, witness, that that can be a very important point?

A. What is the authority for that statement?

MR. DUBOIS: I would like to object to that statement unless the authority he is quoting from can be properly identified and established.

THE PRESIDENT: That would be a matter for the witness, and I think the witness has asked for the authority. He is entitled to know what the source of the matter is, and I think the witness and the defendant are

reaching that point.

You may proceed.

DR. DRISCHER: Mr. President, I should like to have this shown to the witness so that he can convince himself of the correctness of the quotation, but not as an exhibit.

THE PRESIDENT: The document may be sent to the witness.

BY DR. AMBROS:

Q. Witness, you asked me who the authority was. This is a lecture by the American Secretary of War, Patterson, is that correct?

A. The statement is in this document, but I don't see the name of the publication in which this document appeared. Oh, is it the Chemical Engineering News?

Q. The Chemical Engineering News, Volume XIV, Number 8, dated 25 April 1946.

A. It may be that tests have been made which show that our gas masks were sufficiently advanced to take care of these gases, but that may well be because of warning that we had that this type of material was being produced. The gases as they were available at the beginning of the War — the masks as they were known at the beginning of the War were quite different than those which were developed after the War proceeded; and it may well be that provision was made to take care of these materials which were experimented on in accordance with the affidavits which I have seen as far back as 1935 or 1936 in Germany.

Q. Witness, I must correct you. This is not right. The product, Tabun, is absorbed by even the oldest type of gas mask, and products themselves could not be obtained before the beginning of the War. I myself, saw this product for the first time in 1942. Excuse me; I made a mistake.

MR. DUBOIS: I started to say that I think this is reaching again a point which is argument with the witness.

THE PRESIDENT: The form of the defendant's statements, I think, are

technically objectionable in that they were not in the form of an inquiry. The Tribunal wants to be liberal, realizing as it does the difficulties we labor under in the field of languages here, and if Counsel for the defendant Ambros will cooperate with us to try to keep the cross examination in proper channels, we will get along.

DR. DRISCHEL: Thank you, Mr. President. I believe I can leave the field of poison gas.

CROSS EXAMINATION (Continued)

BY DR. DRISCHEL:

Q. Witness, I should like to ask one more question. On the basis of your investigations and studies in Germany after the War, did you anywhere discover whether and when these terrible gases were ever used in the War?

A. No.

Q. Then you agree with me that they were never used by Germany?

A. They may have been used experimentally, but I haven't — I saw no evidence nor have I read any evidence indicating that they were used on a mass scale.

DR. DRISCHEL: Thank you.

BY DR. AMEROS:

Q. Witness, yesterday when you were examined by Mr. Dubois, PE-salt or H4-salt was mentioned. Do you know what PE-salt is — or rather is it true that PE-salt is ethylene diamine dinitrate?

A. That is correct.

Q. Perhaps a better name, according to the Geneva nomenclature —

DR. AMEROS: Excuse me, Your Honors, if I take the liberty of referring you to a fact which is important for the technical execution of this chemical examination. In 1892 important chemists of the world met for a really international congress in Geneva. They created an internationally recognized series of names for the approximately three hundred thousand chemical substances with which we chemists have to deal. It would be

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advisable, perhaps, for the further course of the trial if we chemists for the sake of absolute clarity would adopt the Geneva nomenclature. I wanted to bring this up because it is perhaps important for the procedure.

THE PRESIDENT: May the Tribunal inquire of the witness if he is familiar with the subject about which the defendant is speaking?

THE WITNESS: Yes, I am.

THE PRESIDENT: Then it would appear to be the fact that there is a basis for an understanding so far as the witness and the defendant are concerned, and you may proceed.

Q Witness, is it right to say ethylenedinitrate?

A Yes.

Q I believe doctor, you said yesterday that this compound is made from dichlorethen?

A That is one of the ways of making it, yes.

Q Is it true that the raw material, dichlorethen, is obtained in the production of ethylenoxide as a by-product?

A In one method of making ethylenoxide, yes.

Q Not in oxidation, but in the German chlorine procedure?

A Right.

Q Is it not natural for a chemist, - I would like to say almost a necessity, - that he does not simply discard such a by-product but seeks a use for it? Does it not correspond to the urge for research of every trained chemist that he seeks for a use?

A That is correct.

Q Do you know that the great English chemist, Hofmann, - A. B. Hofmann, - at a proceedings of the Royal Chemical Society of London, in 1860, spoke of this dichlorethen?

A You have quoted now several foreign scientific documents, and publications, one on diglycol dinitrate, one on nitrogen mustard gas from the United States, and now this one on ethylenamine dinitrate, and it is true that that is an old German custom, particularly of I. G. Farben, which originally took the work of Perkins of England, and developed the dye industry with which it threatened the whole world in the first world war, and now it has taken these various other scientific documents and used them for these specific purposes on a large scale.

THE PRESIDENT: The Tribunal will remind the witness that his only function in this trial is to answer questions that are propounded to him. If the question is improper, it may be anticipated that someone will object to it before the witness is called upon to answer it. If the witness will, so far as possible, confine himself to a simple and

direct answer to such questions as may be propounded, and leave it to counsel to make the objections, we will be able to make better progress.

DR. ELIAS: Thank you, your Honor.

DR. BRISQEL: I was about to make that same objection, Mr. President.

BY DR. BRISQEL:

Q I did not want to argue with Hofmann about dinitrate, I merely wanted to ask, do you know the term, "Hofmann base equals ethylene diamine?"

A I have heard it.

Q Witness, from your work with the United States Strategic Bombing Survey can you confirm that the entire production of the PH salt is still in the American zone?

A I cannot answer that.

Q Witness you have an excellent report of Colonel Snow of the United States Strategic Bombing Survey, which is Exhibit 616; you have seen from that, that from 1944 on, the explosives production, - German explosives production, - was reduced to one-third as a result of air raids. Do you believe, witness, that this PH salt would not have been made into an explosive at that time if it had really had a military or strategic purpose and value?

A That would be a guess on my part. I do not see how I can answer it.

Q Do you know that the American authorities at the present time are selling this PH salt, and making a new material?

MR. DUBOIS: I object to the question relating to what is going on today at the present time, as being irrelevant to this cross-examination.

THE PRESIDENT: In a sense that is true. However, this witness has been offered as an expert in the field of chemical science, and it is entirely proper that in cross-examination the inquiry has a broad scope, not only as it may affect the weight to be given to his testimony by the

Tribunal.

Within reasonable limitations, the matter of his knowledge may be gone into, and at this time the Tribunal will overrule the objection.

BY DR. AMBROS:

Q From the purely chemical point of view, Doctor?

A I do not remember your last question.

BY DR. TRISCHEL: The question had not been answered yet by the witness.

Q Dr. Ambros asked you whether you know that the entire production of PH salt, - almost the entire production - is unused, and is lying in the American zone, and that today attempts are being made to use this product; is that correct? You must know that from your report from the Commission.

A That may be.

Q That does not permit a conclusion that this product was never available for poison gas or explosives, otherwise, in view of the enormous scarcity in 1944, as is shown in the Snow document, it would certainly have been used; isn't that right?

A There is no doubt in my mind that if there is any material left in the zones, it can be put to use. I do not know whether any of this specific substance is available in the zones as a surplus from the war, or whether it is being produced today.

DR. TRISCHEL: I should like to point out to you that this is a surplus from the war; it is not being produced now.

BY DR. AMBROS:

Your Honors, may I put in a basic question at this point. I do not want to forget my obligation only to be an expert.

Q Witness, you, as a chemist, were dealing with Document 591 yesterday, NI 6239, a statement of an official of the Reich office, who naively built up chemistry. As a colleague, may I ask you, is there not an enormous danger in such statements, that the laymen will be led to mistaken conclusions if he reads, "calcium, coke and carbon"

gives gunpowder, and explosives, lost buns, and other strategic materials? This is in parenthesis. My question briefly is, is it not dangerous to have serious chemistry presented in such a way, because the layman may interpret it wrongly?

A Well, you refer specifically to this chart. It is a translation of a German chart. Perhaps our counsel can give you the details as to where and how it was obtained. I have gone over this chart carefully, and chemically there is nothing wrong with this chart.

It does not deal with rubber, it deals with powder, explosives, raw materials and chemical warfare agents.

Q That's right. To make my question perhaps still clearer, is the representation of a tree where one branch among many, leads to explosives, powder and chemical gas, is it not better for such a serious argumentation?

A You mean the chart that you introduced yesterday, as being a better representation of theoretical chemistry? Yes, for general peace-time purposes that would be a better representation. However, this chart is one which was specifically organized to show the interlocking of raw materials for these three main important war materials, and therefore, in a discussion of production on these products, this becomes much more vital and much more important.

Q Witness, do you mean to say that all of our beautiful ethylene chemistry in wartime took only these channels? Don't you believe that a modern economy even in wartime, has other branches?

A Yes indeed, I think that it does, but I think that in wartime this chart predominates above all of the other charts.

Q Then we differ only on a question of weight?

A It is a question of quantity, that is correct.

Q Now the last subject, doctor. Yesterday you were discussing with Dr. Rueterfisch, methanol chemistry; Dr. Elias, is it true that the chemistry of methanol, is the subject, or could be the subject for a new tree?

A That is true of almost any organic compound.

Q The main branch would be formaldehyde, doctor?

A That is one of the most important products from methanol.

Q And on this branch there would be many strong, healthy little branches?

A True.

Q Then if I think of bakelite, the revolutionary discovery of America, the inventor Bakela of the research of Oppau, of Polophas of London - dynamite in America, - if I think of it as a molding article, the synthetic glues of the new alcohols, the synthetic dyes,

pentaerythrite, - do I give a correct presentation of the subdivision under the strong branch, "formaldehyde"?

A Yes, you do, and I am glad that you include pentaerythrite.

Q It is true in America?

A Correct.

Q Witness, if persons working in statistics such as will appear here during the next few days, record a considerable increase in these formaldehyde derivatives from 1933 to 1939, as connected with certain political events, how then do you explain the American statistics of the increase?

A I explain that by a great expansion in peacetime activities to produce products for peaceful uses.

Q Quite right. And formaldehyde consumption in America from '33 to '39 increased from 50 million to 140 million pounds. Dr. Elias, wasn't there a certain chemical boom in that period?

A Nothing very special; there was the usual steady rate of expansion.

Q Witness, weren't big discoveries made in the field of plastics, acetylene and ethylene chemistry?

A Yes, there were.

Q Wasn't there work from Newland of Notre Dame, or Carruthers in Wilmington, and I do not want to be immodest, but I might mention my colleague, Walter Reppe of Ludwigshafen in this connection.

A Newland of Notre Dame did some remarkable work in acetylene chemistry; so also did Carruthers in both acetylene chemistry and other varieties of chemistry, and so has Dr. Reppe. They have all done a great deal of work from which there have been a variety of industrial results. Is that what you wanted to know?

Q Yes, that was in this third decade, approximately from 1925 to the beginning of the war.

A Well, Dr. Carruthers died some time before the war, and so did Dr. Newland.

Q Didn't people in America speak of the age of plastics just as we now speak of the age of the splitting of the atom?

A We have talked about the age of this and that, the age of plastics, and the age of aluminum and so on. I do not feel that that is very significant.

Q Dr. Elias, my last question. Is it not true that this is a historical fact, there was a big chemical development in these years?

A Yes.

Q Excuse me, I think it was too long? Is it not right that a considerable part of Germany's increased production too was connected with this big development in chemistry?

A I think that some development here went along that same channel, in peaceful directions, but I think a disproportionate share of ethylene chemistry went into the production of diglycol for explosives, and other things having to do with war.

Q Doctor, I think we are arguing about a matter of weight, but on principle, I think we agree. I merely wanted to present the true conditions now.

Thank you, your Honors. Thank you Dr. Elias.

DR. DRISCHSEL: I have no further questions.

DR. SCHUBERT (For Dr. Buergin):

BY DR. SCHUBERT:

Q Your Honors, I have a few questions which are not of a technical nature, and I believe that I can manage without my client's aid.

Witness, you spoke about light metals, aluminum and magnesium; you gave certain figures about the development of the production. May I first of all ask you where you got these figures?

A These figures, as was stated —

Q Just a moment please.

A Those figures, as was stated, came from the Struss charts.

Q Did I understand you correctly, the figures were from Struss?

A That is correct.

Q Were those the figures from Exhibit 612? That would be prosecution's document NI-10008?

A Correct.

Q Dr. Elias did you examine these figures and check them?

A I have the document in front of me.

Q I asked you whether you yourself had checked these figures in any way to find out whether they are correct or whether you simply —

A I have discussed the matter with Struss.

Q Witness, as the first year, in the comparison of production figures which you gave, you mentioned 1932, you surely know that in 1932 there was a serious economic crisis which was especially strongly felt in Germany; am I not right?

A I think that is correct.

Q So that I believe we agree that the year 1932 cannot be taken as a normal year?

A In respect to the business depression, there was a depression. Its particular effect on any individual figures would have to be analyzed.

Q. Witness, I should like to show you English Document Book No. 30 (handing document to witness.) Would you please look at the last document in this book. That is Exhibit 590 worked out by Dr. Neukirch.

A. The last document in this book is 7562.

Q. That is right, NI-7562, Exhibit 590. Would you please look at the place where I have put the first slip of paper?

A. Yes.

Q. Is there a list there of capacity of German Aluminum Works?

A. Yes.

Q. Can you tell me from this list how high the capacity was of the Aluminum Works in Bitterfeld, which belonged to I.G., in the year 1932?

A. This states it was 8400 tons.

Q. Thank you. And then would you please look where I have put in the second slip of paper? Would you tell me what the magnesium capacity was in the Griesheim, Elektron and Bitterfeld plants since 1915, at the bottom?

A. At the bottom I see a figure of 5,000 tons up above; and down at the bottom, production it says that the Griesheim capacity was 5,000 tons but production was 5500 tons. I don't quite understand that.

A. I believe I can explain that. Actual production given at the bottom is the total German production. The figure of 5,000 tons refers to capacity of Griesheim.

A. I see, yes.

Q. Witness, the Prosecution has just asked me to ask you what Page of the English Book these two figures which you have just given can be found. Would you please do that?

A. The magnesium figures are on Page 90 and the aluminum on Page 102.

Q. Witness, you mentioned a alloy of magnesium and aluminum with the name hydronal. Can you tell me the proportion of the two metals in this alloy?

A. I can't give you the exact figures but the magnesium in that alloy is relatively low in percentage.

Q. In your opinion is it possible that the proportion is 90 aluminum to about 10 magnesium and other component parts?

A. That is possible.

Q. Do you have any knowledge of whether this alloy was produced in Germany exclusively by I.G. or whether it was produced by other firms?

A. That I cannot say.

Q. And now something else, finally. You mentioned synthetic cryolite which is used in the production of magnesium and you said that the I.G. was the sole producer of this synthetic cryolite. Witness, do you see any reason to correct your testimony on that point if I put to you that the part taken by I.G. in German production was about 50 to 60 per cent and that important chemical firms such as Reutgers, for example — I am sure you know that name — also produced synthetic cryolite?

A. That may possibly be true. I have relied on some information I got in questioning various technicians. But let me correct you. The cryolite is for the production of aluminum, not for the production of magnesium, as you said.

Q. I believe you misunderstood me. I meant aluminum. Can you tell us, witness, whether this synthetic cryolite was produced abroad too?

A. Some synthetic cryolite was produced abroad, yes, but the chief source of cryolite is natural cryolite.

Q. But in any case the formula for the synthetic cryolite was not a secret?

A. No.

DR. SCHUBERT: Thank you. No further questions.

DR. HEINZELER: Heinzeler for Dr. Wurster. Your Honors, I should like to ask the witness a few questions dealing with sulphuric acid in

which field Dr. Hurster is an expert.

BY MR. HAINZELER:

Q. Witness, you testified yesterday about the procedure for the production of sulphuric acid from gypsum. From the technical point of view, do you see any difference between the sulphuric acid which is produced from gypsum and the sulphuric acid which is produced in a different way, either directly from sulphur or from pyrite or from other sulphuric ores?

A. No.

Q. Then it is correct that gypsum sulphuric acid gives no indication of the purpose for which it is to be used, but that the term gypsum sulphuric acid is merely an indication of the source of the sulphuric acid?

A. That is correct. The sulphuric acid from any source is the same.

Q. Witness, you testified yesterday that in the production of explosives, in the final stage, in the so-called nitration, a mixture of highly concentrated nitric acid and highly concentrated sulphuric acid are used?

A. Yes, mixed acid.

Q. Is it true that in the production of explosives only the nitric acid is the effective agent in this mixture; that it goes into the final product of explosives and that the sulphuric acid is not taken up into the final product?

A. That is correct, although there are some slight losses and that does explain why the increase in tonnages of sulphuric acid over the period from 1933 to 1939 were at a slower rate than the increase in concentrated nitric acid. It is because the sulphuric acid is not consumed in the nitration. It is only the nitric acid that is consumed. The sulphuric acid has to be there and there are some mechanical losses.

Q. Is it correct to say that because sulphuric acid is not consumed, the importance of sulphuric acid in explosive chemistry is quite

minor compared to the importance of sulphuric acid in chemistry in general? I am speaking quantitatively.

A. Well, I guess that may be so.

Q. Thank you. Witness, you testified yesterday — you gave explanations on the concept of oleum in connection with an oleum plant built by I.G. You explained the term oleu, saying that it was a highly concentrated sulphuric acid as used for explosives production. Did I understand you correctly?

A. It is a highly concentrated sulphuric acid.

Q. Is it correct to say that oleum is used not only in explosive chemistry but also in other branches of chemistry; that is is of great importance? For example, is it correct that for the production of certain Indanthren dyes made by —

A. I think I would go further than that and say that sulphuric acid has great importance in many, many industries as well as in the explosive industry.

Q. My question was not of sulphuric acid in general but of the special form of sulphuric acid which was called oleum yesterday.

A. Yes, it is used for sulphonations in the dye industry.

Q. Is it true that oleum is also used for sulphonation in the pharmaceutical industry, for example, for the production of sulphonamides?

A. Yes, indeed it is.

Q. Is it correct that oleum is used for the production of tanning agents, for example, naphthylene sulphate acid? Is it correct that oleum is used in the industry of detergents and wetting agents, for example, in the production of alkyl, sulphonated naphthol?

A. Yes.

Q. Consequently, is it a fact that oleum factories were built not only in Germany but that also outside of Germany there were many sulphuric acid factories to which were attached plants for the fabrication of oleum?

A. Yes.

DR. WEINER: Thank you.

DR. BERDT: Dr. Berdt for the Defendant Dr. ter Meer. I ask for permission for Dr. ter Meer to come to the rostrum to ask the expert a few technical questions.

First, I should like to ask the Tribunal, since the examination will take some time, whether the Tribunal should like to have the recess now.

THE PRESIDENT: Would counsel prefer to have the recess now rather than to have the testimony interrupted by a recess?

DR. BERDT: I don't wish it, but I thought the Tribunal might prefer not to have the examination interrupted.

THE PRESIDENT: Very well. We will take our recess at this time then.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

DR. BERNDT: (For the defendant Ter Meer): May I ask for permission for Dr. Ter Meer to put a few questions of a technical nature to the witness?

THE PRESIDENT: The defendant Ter Meer may proceed with the cross examination of the witness.

BY DR. TER MEER:

Q. Witness, I may assume that generally you are familiar with the development of synthetic rubber in the countries concerned?

A. In general, yes.

Q. Yesterday, witness, you mentioned that already during the first world war the dye plants of Bayer in Elberfeld could produce synthetic rubber?

A. Yes, they produced a material from Dimethol-Butadiene as I remember it which was not very satisfactory for ordinary use.

Q. That is correct. From that it can be seen that the research about synthetic rubber falls into the period before the first world war. Did you remember what year marked the beginning of a systematical research in the field of synthetic rubber?

A. What do you mean by a systematic research? The experiments on synthetic rubber by various chemists in various countries have covered a hundred years, all the way back to 1832 when Himly made some distillations of natural rubber.

Q. Systematical research, you will recall, is when for the first time the research worker Harries examined the structure of rubber and its composition of certain carbo-hydrates, that is the decomposition of which gave the basis for a systematical research. You will remember the articles by Harries originated from about the turn of the century?

A. That is approximately correct.

Q. Is it correct that during the time up to the first world war

the investigation of certain carbohydrates was especially taken up amongst which was butadien and di-methyl-butadien.

A. The translation should be hydrocarbons; not carbohydrates. The answer to your question is that during the period before the first world war there was a considerable amount of organized research on synthetic rubber in all the countries of the world as well as Germany.

Q. If it pleases the Tribunal that I ask my questions in English I will do so in order to make the conversation more easily understood especially for the English participants here.

THE PRESIDENT: That is entirely satisfactory and will be very helpful if you can do so.

BY DR. TER MEER:

Q. After Bayer had manufactured during the first world war about 2,500 tons of the so-called meythl rubber this matter had been given up entirely because, as you mentioned before, the product was not good; it was not an elastic rubber and it was only good for hard rubber ware. Now, after the war the synthesis of butadiene became the foremost and most important point of whether synthesis was satisfactory altogether. Is that a correct statement?

A. That is correct.

Q. Now besides the synthesis of the hydrocarbons isn't it correct that also the work being done in the borderlands of chemistry and physics was very important in order to pursue the research of the big molecules which represent natural rubber and I may mention in connection with this the names of Staudinger, of Mark and Mayer, of Curuthers, and others, and are you in agreement with me that these studies in the field of the so-called micro-molecules was very important in connection with the later findings in synthetic rubber and in other plastics?

A. I agree very fully.

Q. Now, after these first steps had been accomplished we came to a certain synthesis of synthetic rubber in the world. Is it correct if I state that the first country in the world which started the manufacture of synthetic rubber was Russia?

A. I know that a great deal of work was done in Russia but to what degree synthetic rubber was actually produced has not been made clear. Some articles were published indicating a great deal of work in Russia - possibly there was production.

Q. I agree with you that we can rely only on news coming from Russia, which were more or less reliable but I think it can be said that it is understood among experts that already in the first years of the thirties a certain production running between 20,000 to 30,000 tons of butadiene rubber have been made in Russia. Do you think that is likely?

A. It is possible from the alcohol processes.

Q. From the alcohol processes, yes. Now, the second step of industrial manufacture in the synthetic rubber field was carried out in the United States. I mean in this respect the work being done by the Dupont Company at Wilmington starting with the invention of the Monovinyl acetylene by Baerlen from Rotterdam university and carried out to Chloroprene and Neoprene, which are different names, by Carruthers and his colleagues. Is that correct?

A. That is correct. I don't remember the exact dates but they were in the early thirties.

Q. It was in the early thirties. At any rate I was at Wilmington in the year 1935 and I was shown over the works which was really a factory. That was not only a ---

A. That is correct, yes.

Q.- Is it furthermore correct that the first manufacturers in larger quantities of the German Buna has been carried out in 1937, after I.G. Farben had started to build the first factory at Schkopau in the beginning of 1936 do you recall that you mentioned that yesterday yourself this year and the figures of production?

A.- Well, the figures I mentioned were correct from the chart.

Q.- Are you in agreement with me if I state that all these three kinds of synthetic rubber made in Russia or in America or in Germany are no real synthetic rubbers in this respect that they are not entirely chemically or structurally correspondent to the nature of rubber?

A.- I do.

Q.- Is it furthermore correct to state that the field of synthetic rubber or its substitutes should be broadened somewhat by including such materials which are more different from natural rubber than the before mentioned synthetic rubbers, I mean substances like Butyl rubber made from butylene, chorosyl, which is a vanil chloride and with plasticizers and thiopones. Is that correct that they also belong to the class of substitutes of natural rubber?

A.- That is correct.

Q.- In order to outline the whole new technique of rubber processing, a technique which started to become more or less chemical, if I may say so, during the ears of the first World War when the motor car industry in America made such quick and large progress is it correct to include this development in processing and to mention such performances as rubber accelerators, as anti-oxidents, and the use of carbon black?

A.- Yes indeed, very vital.

Q.- So we are in agreement that specifically also with the new synthetic rubbers the question of the processing was of a very great importance.

A.- That is true!

Q.- Have you ever had the chance to see at our Leverkusen Works the big rubber laboratory which we have built there in order to work specifically on the use and application of the various brands of synthetic rubber for the various technical uses.

A.- Yes, although not in a detailed fashion.

Q.- You will agree with me that this is a very great and big installation which we have made there in order to work on these various processes?

A.- That is correct.

Q.- Are you in agreement with me if I state that in connection with the work which has been carried out in the manufacture of butadiene according to the German process made from

acetylene that in connection with this work also certain research carried out by our chemist Reppe at Ludwigshafen was very important, partly in connection with synthetic rubber by finding and working out a new process for butadiene and partly in the field of various plastics.

A. Dr. Reppe's work was very brilliant.

Q. Do you recall a process of making butadiene from acetylene and formaldehyde?

A. I do.

Q. Can you tell me at what time about the dehydrogenation of butane and of butylene in order to make cheap butadiene from mineral oil products has been solved in the United States?

A. I think it has been solved relatively recently although original experimental work on that process goes back all the way to at least 1913. I think Oskar Wialenski did a good deal of work on that.

Q. I have the feeling that in a commercial way on a large scale dehydrogenation firstly in order to produce butylene, as of butylene and iso-octene and so on was carried out about in the middle of the thirties and I recall that Professor Egloff of Chicago read a paper on chemical production from mineral oil at the International Congress at Rome in 1939 where he also mentioned the manufacture of butadiene through dehydrogenation from butane or butylene being developed to such an extent that before long, probably this process would be available. Do you think this statement is correct?

A. I think it is only partly correct. It depends on what you mean by completely developed. As you know there are so many difficulties after you think a process is developed when you try to apply it on a large scale so that all kinds of difficulties come up which may add years to what you are trying to do.

Q. I am in full agreement with you that Professor Egloff being a scientist probably mentioned the possibility of carrying out a reaction in the laboratory and I am also in full agreement with you that the

industrial development of making butadiene from butane and butylene has been carried out in America only after 1939. Now if it takes all this work which has been done in the broad field of synthetic rubber of the processing of natural rubber and synthetic rubbers, if it takes together all this knowledge which has been acquired in the field of the micro-molecules and if we look at this big field of accomplishments from the standpoint of the scientists, of an engineering chemist and of an application chemist, are you then in agreement with me that a remarkable work has been done here by several nations which will maintain its place in all future times in the annals of creative chemistry.

A. I think chemically the achievement has been remarkable.

Q. Thank you.

DR. BREHDT: No further questions, your Honor.

THE PRESIDENT: Does the defense desire to cross-examine this witness further? There seems to be no such desire. Has the Prosecution any rebuttal? Then the Tribunal will excuse the witness from the stand.

MR. SPEECHER: Your Honors, I had informed your secretary that the witness von Heider will be next. However, Dr. Boettcher has pointed out that the defense were relying upon the witness Dr. Hagert being next and if it is agreeable to your Honors we would like to comply with the defense's wish and call Dr. Hagert but that may mean we will have to get different books from your office.

THE PRESIDENT: If counsel for the Prosecution thinks the Tribunal need additional books you say, without interrupting us, notify our secretaries to send in the books needed.

MR. SPEECHER: I think we may need them where a reference is made to a specific page where there need be a correction.

THE PRESIDENT: We will then make that notation.

MR. SPEECHER: We will then call the witness Dr. Hagert.

1 Oct 47-9-1-M-AMH-Burns (Katz)

THE PRESIDENT: May I enquire of the prosecution if this witness should have the German form of oath or the American?

MR. ANCHAN: I suggest the German form of oath.

WERNER HAGERT, a witness took the stand and testified as follows:

THE PRESIDENT: The witness will stand, held up his right hand, say "I" and repeat his name.

THE WITNESS: "I", Werner Hagert.

THE PRESIDENT: The witness will now repeat after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withheld and add nothing.

(The witness repeated the oath)

The witness may be seated. The witness is with the prosecution.

DIRECT EXAMINATION

BY MR. ANCHAN:

I believe it will be helpfull, your Honors, to state which of the affidavits that this witness has executed and which the prosecution has submitted in evidence in order to indicate the scope of the cross examination with respect to the particular affidavits. The first affidavit is NI-9052, which is Prosecution Exhibit 51 and appears in Book 2. The second affidavit is NI-10035 which is Prosecution Exhibit 428 and appears in Book 20 and Book 32. The third affidavit is NI-10036 which is Prosecution Exhibit 429 and appears in Book 20 and Book 32. The fourth affidavit is NI-9513, Prosecution Exhibit 533 and appears in Book 27. The fifth affidavit is NI-10926 and appears in Book 32 and, I am sorry, for the time being I havn't the exhibit number. NI-10926 is Exhibit No. 690. Dr. Hagert, where do you reside?

1 Oct 47-9-2-M-AH-Burns (Katz)

A. In Hiltensbach, Westphalia.

THE PRESIDENT: The Tribunal would like to take this opportunity to remind all of counsel of the situation presented by the production of this witness on the stand today. As we understand the record some five or six affidavits executed by this witness have been received in evidence as a part of the prosecution's case in chief. We should like to make it clear that we do not desire to have the witness reiterate what is in the affidavits. Under the ruling made yesterday that the prosecution is privileged to supplement but not to repeat the evidence contained in the affidavits which have been received in evidence. Any evidence produced by the prosecution from this witness should, therefore, be entirely without the scope of the affidavits that are already before the Tribunal.

May we add when it comes to the cross examination of this witness the defense must at this time be limited to enquiries regarding the affidavits in evidence and to such oral testimony as the witness may give while on the witness stand. In other words, we are concerned that the prosecution shall not consume the time of the Tribunal in repeating evidence that is already before the Tribunal in affidavit form. We are likewise concerned that the defense strictly limit the cross examination to the matters that are already before the Tribunal and that care be exercised by the defense not to anticipate defenses or anticipate evidence in affidavit form of which it may already have actual knowledge, that is to be produced. In other words, if additional affidavits from this witness are offered by the prosecution the defense will be accorded an opportunity to cross examine after those affidavits have been before the Tribunal. We shall ask your hearty co-operation in

1 Oct 47-9-3-M-AEH-Burns (Katz)

confining the examination and cross examination of this witness to the channels indicated by the ruling of the Tribunal yesterday. Thank you, very much.

BY MR. AMCHAN:

Q. Will you please tell us, Dr. Hagert, the circumstances under which you first were contacted by the Office of Chief of Counsel for War Crimes?

A. One day a policeman appeared in my place of residence and informed me that by radio of the police he had been asked to have me go to Nurnberg. I asked him in what manner should I go but he could not tell me and this was how I was brought here. I assumed that I was mentioned by a third party.

Q. Do you know who the third party was?

A. I presume that it was Dr. Zhraann, Dr. Ungewitter's former deputy in the Reich Office.

Q. I understand, Dr. Hagert, that you are a chemist by profession and that you received your Doctor's Degree in chemistry in 1932; is that correct?

A. Yes, sir, I graduated in 1932 about the thesis of chlorophyll.

Q. And between 1930 and 1933 I understand that you were an assistant of Professor Fischer of the University at Munich; is that correct?

A. Yes, Professor Fischer is also Honorary Doctor of Harvard University.

Q. Is this the same Professor Fischer who was the Nobel prize-winner in organic chemistry?

A. Yes.

Q. Now, who is Dr. Ungewitter?

A. Dr. Ungewitter was the business-manager of the Economic Group Chemical Industry which is a composition

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of the various branches of the chemical field and business. He was also the so-called Reich Plenipotentiary for chemical industry as Chief of the Reich Office Chemistry. It was an office which was subordinate to the Reich Ministry of Economics.

Q. Am I correct, Dr. Hageit, in stating that Dr. Ungewitter occupied two positions? One in the Economic Group Chemistry which was a private association, and two, under the Reichstelle Chemie, which was an official organization under the jurisdiction of the Ministry of Economics; is that correct?

A. Yes, sir.

Q. When did you first meet Dr. Ungewitter?

A. I made his acquaintance at the occasion of a wedding of a friend of mine. After I had made his acquaintance there he asked me to visit him sometime if I was interested in co-operating with him in his work.

Q. Could you fix the time when that took place?

A. That was in Autumn towards the end of 1936.

Q. And did you later go to see Dr. Ungewitter?

A. I visited him and agreed with him that I should work with him beginning in 1937 as his assistant, so to speak.

Q. What was the nature of your work with the Economic Group Chemistry?

A. First of all, I studied the activity of this organization, which I did not know up to that time, by working in the various departments. Since about the middle of 1937 I was directly subordinate to Dr. Ungewitter and dealt with military economic problems from which the so-called "Mobilization Department" was later on developed.

Q Do I correctly understand you to say that you dealt with mobilization problems of the chemical industry as an assistant of Dr. Ungewitter; am I correct in that understanding?

A Yes, that is correct.

Q During what period of time were you in charge and dealing with mobilization questions in the chemical industry?

A From the middle of 1937 up to the end of 1939.

Q And who was your direct superior?

A Dr. Ungewitter.

Q By the way, Dr. Hagert, when did you become a member of the Nazi Party?

A Gregor Strasser personally had induced me in 1930 to become a member of his movement. Later I devoted my thesis to him. It is known that Herr Strasser was murdered by Hitler.

THE PRESIDENT: Mr. Witness, it will serve to expedite very greatly the trial of this case if you will as directly and as briefly as possible answer the questions that are propounded to you, and not anticipate what further information counsel may have in mind asking about. If you will do that and leave it to the judgment of counsel to afford you an opportunity to amplify your answers it will greatly preserve our time, and we will appreciate very much whatever cooperation you can give us along that line.

Q What year did you join the Nazi Party?

A 1930.

Q Dr. Hagert, you have heard me refer to the affidavits that you have executed, and which have been introduced in evidence; do you have before you now copies of those affidavits in German?

A Yes.

Q Would you please turn to the affidavit which is identified as HI-8052, which is Prosecution Exhibit 51, and with respect to that affidavit I ask you whether you have re-read that recently?

A Yes, that is so.

Q Are there any modifications or additions that you would like to make at this time with respect to the matters stated in that affidavit?

A Yes, I consider it necessary under No. 2, which is on page 3, to correct the statement at the very top, "Capital figures of 1926."

Q One moment, please. When you said page 3, you are referring to the German page 3, is that correct?

A Yes, sir, the German page 3.

Q And that the paragraph beginning with No. 2, beginning with, "In 1925 —"

A Yes.

MR. KITCHEN: That is on page 2, Your Honor, of the English.

Q Go right ahead.

A At the top of the page there is the remark, "Capital figures taken for the year 1926." It should read, "Capital figures for amounts taken year 1932."

Q Dr. Engert, what did you base your figures on, what was the source from which you put these figures in the affidavit?

A The source of these figures is here in Murnberg, first of all, as far as capital figures are concerned, the handbook of corporations, which is a standard textbook in this field. Apart from that I was only able to make these statements by reason of the knowledge which I had acquired in my former position with Dr. Ungewitter. It is evident, of course, that I also derived my knowledge from publications, literature and other books in the field of chemical industry. I educated myself further in this field. Since it is not possible to carry all these figures in ones head I was given some data, which I checked, and I also used them to compile this list. This list, of course, may be incomplete. Certain phenomena have been touched upon without explaining the technical economic inter-correlation of these things.

Q Are there any modifications or additions that you would like to make at this time with respect to the matters stated in that affidavit?

A Yes, I consider it necessary under No. 2, which is on page 3, to correct the statement at the very top, "Capital figures of 1926."

Q One moment, please. When you said page 3, you are referring to the German page 3, is that correct?

A Yes, sir, the German page 3.

Q And that the paragraph beginning with No. 2, beginning with, "In 1925 —"

A Yes.

MR. ALEXANDER: That is on page 2, Your Honors, of the English.

Q Go right ahead.

A At the top of the page there is the remark, "Capital figures taken for the year 1926." It should read, "Capital figures for amounts taken year 1932."

Q Dr. Emyert, what did you base your figures on, what was the source from which you put these figures in the affidavit?

A The source of these figures is here in Wurnberg, first of all, as far as capital figures are concerned, the handbook of corporations, which is a standard textbook in this field. Apart from that I was only able to make these statements by reason of the knowledge which I had acquired in my former position with Dr. Ungewitter. It is evident, of course, that I also derived my knowledge from publications, literature and other books in the field of chemical industry. I educated myself further in this field. Since it is not possible to carry all these figures in ones head I was given some data, which I checked, and I also used them to compile this list. This list, of course, may be incomplete. Certain phenomena have been touched upon without explaining the technical economic inter-correlation of these things.

Q I think, Dr. Hagert, you have answered my question. Is there anything further that you think may be necessary with respect to this affidavit, either by way of explanation to correct any misunderstanding or anything of that nature?

A Yes. It seems relevant to me in connection with this list which, as I just said, treats only the phenomena of the activity of this firm, that an explanation of technical or industrial connections should be considered, this in order to understand the causative history of development of this field of industry. I was not able to do that here.

Q The matters stated in this affidavit, VI-9052, are they correctly stated by you?

A Yes, they have been represented correctly by me.

Q Will you now please turn to VI-10,035, which is Exhibit 428 --
MR. A. CHAM: I might suggest to Your Honors, Book 32 would be the most appropriate book to use, as most of the affidavits are in Book 32.

MR. SPRINGER: Your Honor, since the affidavit first appears in Book 20, you have it in Book 20.

THE PRESIDENT: Thank you.

JUDGE CHAMBERLAIN: What is the exhibit number again?

MR. A. CHAM: 428, Your Honor, please, VI-10,035, page 21, Book 20.

Q Dr. Hagert, in that affidavit you give comparative figures showing the percentage of I.G. Farben's share in the expansion of production capacity in the 4-year plan, and you compare that with the total expansion program under the 4-year plan; now, what is the source of the figures that you set forth in that affidavit?

A The source for this list were the various drafts of this so-called 4-year plan. These drafts were used by me before, which were commonly called IC 281 and VI-5769.

Q Now, are there any changes or modifications that you would want to make at this time with respect to this affidavit?

A Yes. The way of expression on page 1 of my affidavit, and I read: "All those plants which were either plants of the I.G. or which were operated by I.G." , does not seem to be complete enough or correct enough in order to express what was actually done here, because also these plants.

2 One moment, please. Dr. Hagert, are you referring now to paragraph 3 on the first page, and the second —

A Yes, that is quite correct.

4 — add the second paragraph, beginning with "In the table I have used:"

A. Z. Z.

2. Also that is the paragraph you are referring to?

A The manuscript which I tried to read just now.

2 Will you please re-read it then as you think it should read,
the new sentence?

A Yes, sir, I will do that. "I have considered as belonging to I, 3. in the chart all those works which are either works of Farben or which were operated by Farben or were operated by Farben license." I consider this formulation more correct, because it corresponds to information derived from the 4-year plan, which states on page 16 of this plan, under the title, "Mineral Oil Plan total Production Capacity", and which emphasizes these Farben processes especially.

Q Is there anything further with respect to this affidavit as to changes or modifications?

A Two small technical mistakes in reproduction which are unimportant. Two positions on page 2. Sulphur carbon and acetic acid should be marked with an asterisk which would signify that these figures have been taken from the plan of 1938. Furthermore, it is evident when making such a compilation of two such comprehensive lists which include so many figures covered by the Four Year Plans, which then get such extraordinary significance, that differences of opinion arise about the extent of participation. About the

Q Dr. Hagert, excuse the interruption. As you indicated a moment ago, you had two minor changes of a technical nature with respect to this affidavit. Are there any further changes of a substantial nature?

A No, but it seems necessary to me to make some comment upon the way in which I calculated these figures either now or later in order to remove any points which are not clear.

THE PRESIDENT: If the parties desire any amplification of the facts set forth in the affidavit, a timely inquiry will be made, witness, and it will not be necessary for you to anticipate any such inquiries. If there are no such inquiries, no purpose would be served by going into that now. As the Tribunal understands what counsel for the prosecution is attempting to do now is to afford you an opportunity to make any corrections of a substantial nature that you may deem necessary in order that this affidavit may recite the facts as you understand them to be. That's the only purpose of the present inquiry, is that correct?

MR. ALGER: That is correct, Your Honor.

BY MR. ALGER:

Q Is there any further substantial change or modification with respect to that affidavit?

A By reason of my knowledge, it seems to me that I must have an

opportunity to point out that certain plants which I considered a part of Farben, and which I considered part of the planning, later developed into plants of Farben; that I included these plants also as plants of Farben, because if I did not point this out, then some misunderstanding might arise that I had not cleared up in time how I arrived at the compilation of my figures.

Q Now, Dr. Hogert, this affidavit, 10035, as executed by you, without further explanation, does that correctly set forth the facts as you state them?

A Yes, it does explain the facts, certainly.

THE PRESIDENT: Then that is a complete answer to the present inquiry and no further statement of the witness is necessary. If counsel is concerned about any further inquiry, he may ask a further question.

BY MR. ALEXAN:

Q Will you please now refer to FI-10036, which is Prosecution Exhibit 429. That appears, if Your Honor please, at page 25 of Book 20.

Now, Dr. Hogert, this affidavit again refers to figures of investments under the Four Year Plan and different projects there named. In your affidavit, you state that you also based these figures on the project reports of the Four Year Plan. Are the matters stated by you in that affidavit correct?

THE PRESIDENT: That question the witness should be able to answer "yes" or "no".

THE WITNESS: Yes, these things are taken from the Four Year Plan..

THE PRESIDENT: Pardon me, Mr. Witness, no further statement is called for. You have answered the question. If counsel wishes to conduct a further inquiry, he will have an opportunity to do so.

BY MR. ALEXAN:

Q Will you please turn now to FI-9513, which is Prosecution Exhibit

533. This appears, if Your Honor's please, in Book 27, at page 33.

Have you that affidavit before you? VI-9513, Dr. Hager?

A Yes.

Q This affidavit contains additional figures analyzing the Farben position in the oil project under the Four Year Plan. Are the matters stated by you in that affidavit correct?

A Yes.

Q Are there any substantial additions or changes that you want to make at this time with respect to that affidavit?

A No.

Q Will you please turn then to VI-10926, which is Prosecution Exhibit 590, and that appears, if Your Honor please, in Book 32 at page 35.

Now, in that affidavit, you prepared a chart based on documents which were furnished to you. Have you any substantial additions or modifications to make at this time with respect to that affidavit?

A No, I know of nothing.

Q We have no further questions, if Your Honor please.

THE PRESIDENT: Does the defense desire to cross examine the witness with reference to the affidavits to which he has referred or the testimony he has given from the stand?

DR. BOETZNER: Mr. President, we intend to cross examine the witness about the contents of the affidavits and the few additions which the prosecution has asked and made now. We should be grateful, however, if we were given an opportunity to discuss an important sentence with the defendants which the witness has just now added and to start the cross examination after the recess.

THE PRESIDENT: Very well. That fits quite well the situation that the Tribunal is confronted with because we do not have before us our Document Book 32 so, at this time, we will recess for the noon lunch to afford you the opportunity that you desire and us the opportunity of getting our books. The Tribunal will now recess until 1:30.

(A recess was taken until 1330 hours.)

THE MARSHAL: The Tribunal is again in session.

MR. AMCHAN: I have a very brief announcement, if Your Honors please.

We have delivered to Dr. Weingast a photo of Document NI 6769, which is mentioned in Dr. Hagart's affidavit NI-10035, which is Prosecution Exhibit 428. We have delivered to him a photo of that.

THE PRESIDENT: Thank you.

The defense may proceed with its cross examination of the witness.

CROSS EXAMINATION

BY DR. BOETTCHER (Defense Counsel for the Defendant Krauch):

Q Witness, may I ask you what position you held before you took up your position in the Economic Group Chemistry?

A As I said before in the direct examination, up to 1933 I was the assistant of Geheimrat Fischer in Munich. After that, from 1933 to 1936, I worked in the German Student's Organization. My duties were in so-called outside work. Among other things, I was head of the so-called Foreign Countries Office which dealt with relations with foreign students in Germany and foreign students' organizations abroad. In connection with this work, in 1935 and 1936, I had an assignment in the so-called National Socialist Students' League.

Q Thank you very much. That's enough about that question. I understand from your description that you had no position during those years in chemical industry which might afford you an exact survey of this industry?

A Not in those years.

Q Why did you leave the Economic Group Chemical Industry?

A I never left the Economic Group. I belonged to it until it was dissolved in May, 1945.

Q Was that your main work or only on the side?

A I belonged to it. That was my work. If I may add something - in 1940 I was drafted into the German Wehrmacht.

Q Do you know the conditions of chemical industry abroad?

A Not from personal experience, in that I was abroad. I know about them only from publications in Germany.

Q Do you know anything about the science of statistics?

A I believe I can say so.

Q Do you know anything about economics?

A To a lesser extent.

Q I shall now talk about the affidavit Exhibit # 51.

Mr. President, that's in the English document book 2, Page 61, German document book, Page 51.

Under # 3, sub-section a, that's on page 3 of the original, page 62 of the English, you state that I.G. had, in the sphere of chemicals, a complete monopoly for the German market. More so than any chemical combine in any other country had ever achieved. Witness, do you know the Imperial Chemical Industry Ltd. in England? And do you know Montecatini in Italy?

A Yes, I know those names.

Q Don't you believe that those enterprises in the countries named have a similar position to Farben in Germany?

A These firms certainly had a very important position in their respective countries, but I doubt whether they can be compared with Farben.

Q Can you make any statements about the approximate ratio of the turnover of Farben to the total turnover of those chemical firms which comprise the Economic Group Chemistry?

A I do not have any statistics with me at the moment, but I consider it important to try to answer this question anyhow. The Economic Group Chemical Industry, as the name indicates, included all the firms which had something to do with the chemical production process. There are some very small firms which employed only a few people, and there are very big firms as well. Now, this sphere of work can be divided into two respects - one part of the firms, especially the bigger firms ...

Q (Interrupting) Excuse me, witness, if I interrupt you. Please be kind enough to answer the question. Ratio of I.G. Farben turnover to the turnover of all plants represented in the Economic Group Chemistry, I don't need the long explanations.

A The turnover of I.G., in comparison to the total turnover, is greater than that of any other firm.

Q But you don't know any figures?

A Not at the moment.

Q Can you make an approximate estimate? Is it correct to say about 35%?

A That might be right.

Q Witness, do you know that Farben did not participate at all in the production of a large number of important chemicals?

A Yes, I know that.

Q If I may give you a few examples: super-phosphate, they did not make that.

A No.

Q How about alumina and its derivatives?

A Yes.

Q How about soda?

A Yes.

Q Potassium salts?

A Yes.

Q How about charcoal?

A Yes.

Q Soaps, glycerine, rubber goods? Please. You say "no" to this, don't you?

A I have some brief comments to make. I don't know whether I should make them immediately after your question?

Q Please be kind enough if possible to comply with the procedure requested by the President and to say "yes" or "no".

A Well, in respect to soda I have to say that the I.G. participated to a very slight extent.

Q Very well. How about potassium salts?

A Yes.

Q How about charcoal and wood sugar?

A Yes.

Q Soaps?

A Soaps, yes. Detergents ...

Q I am not asking you about detergents. I am expressly not asking you about detergents. Soaps, yes.

Glycerine?

A Yes.

Q Rubber goods?

A Yes.

Q How about metal salts?

A I don't want to answer this question in the affirmative. The I.G. did produce metal compounds.

Q How about waterglass?

A Yes.

Q That's enough. Under # 3a of Exhibit # 51 - and that's still the same exhibit which we are discussing - you mention that the I.G. and those firms licensed by her were the sole producers of synthetic nitrogen in Germany. Can you name firms licensed for the ammonia process of Haber-Bosch?

A The Gewerkschaft Victor and three other plants which worked in this field.

Q You say furthermore that Farben and those plants licensed by her, were the only producers of synthetic nitrogen in Germany. Don't you know that besides the Haber Bosch process independent by Farben, a process for the production of nitrogen of lime was developed by Frank and Caro?

A Yes, of course, I know that.

Q I did not hear you.

A Yes, I know that.

Q You know it. Well, how do you then explain your answer in your affidavit that Farben was the only producer of this substance?

A According to the process of Frank and Caro, the Aktiengesellschaft fuer - - -

Q Excuse me, witness, that is not an answer to my question. I'll point out a contradiction to you. You say that Farben and those firms licensed by her were the sole producers, that is important, and you are now answering my question by admitting that another process existed for the production of nitrogen and lime, namely, the process developed by the Bayrische Stickstoffwerke?

A Yes, surely, I can say that the two firms I have just mentioned are firms which were controlled financially by I.G. Farben.

Q Well, then, both of these firms did not work according to the Farben process but according to the Frank and Caro process?

A Yes, that is right, and I did not say -- in what I wrote down here I did not say that synthetic nitrogen did not include Frank and Caro.

Q You said furthermore in that same affidavit, witness,

Q You say furthermore that Farben and those plants licensed by her, were the only producers of synthetic nitrogen in Germany. Don't you know that besides the Haber Bosch process independent by Farben, a process for the production of nitrogen of lime was developed by Frank and Caro?

A Yes, of course, I know that.

Q I did not hear you.

A Yes, I know that.

Q You know it. Well, how do you then explain your answer in your affidavit that Farben was the only producer of this substance?

A According to the process of Frank and Caro, the Aktiengesellschaft fuer - - -

Q Excuse me, witness, that is not an answer to my question. I'll point out a contradiction to you. You say that Farben and those firms licensed by her were the sole producers, that is important, and you are now answering my question by admitting that another process existed for the production of nitrogen and lime, namely, the process developed by the Bayrische Stickstoffwerke?

A Yes, surely, I can say that the two firms I have just mentioned are firms which were controlled financially by I.G. Farben.

Q Well, then, both of these firms did not work according to the Farben process but according to the Frank and Caro process?

A Yes, that is right, and I did not say -- in what I wrote down here I did not say that synthetic nitrogen did not include Frank and Caro.

Q You said furthermore in that same affidavit, witness,

that ninety percent of synthetic fuel were produced by I.G. and its licensees. Do you mean to say that production by those licensees was an I.G. product?

A I mean to say what I have written down here. Ninety percent of Germany's synthetic fuel was produced by I.G. Farben or by its licensees.

Q Yes, I understand, but I ask you now whether production according to the licensed process by a licensee constitutes production by Farben?

A No.

Q Thank you very much. Do you know that besides the Farben process of coal hydrogenation, the Fischer-Tropsch process and the Bergius-Brosch process were also used for the production of liquid fuel?

A Yes.

Q Do you know the firms of the Ruhr Chemie, and Fischer Oberhausen, and eight other firms were working according to the Fischer-Tropsch process?

A Yes, I know that.

Q Another problem. You stated that in the German production of cellulose wool, the experience gained by Farben was a tested factor; do you know the production percentage of Farben in cellulose wool?

A Before I answer your question . . .

THE PRESIDENT: Now, now, witness, please, you have just simply been asked whether you know a certain fact. You can answer that yes or no, and then if Counsel wants to pursue the question further, he will ask you another question. Will you please answer that, yes or no. Do you know whether or not . . .

THE WITNESS: I estimate thirty percent.

THE PRESIDENT: I think you are a jump ahead of us again, but that is all right.

BY DR. BOETTCHER:

Q Under III-B of the affidavit, in the production and factories column you name six I.G. factories for photographic articles. If you will be kind enough to look at page 4 of the original, page 63 of the English, and page 5 of the German text --

A Yes.

Q It is the fifth line, where it says, "photo six". Do you have that?

A Yes, I have it.

Q Can you name those six factories for photographic articles?

A First, Wolfen-film, Leverkusen, in Munich there is a camera factory; then there is a plant which was not finished in Landsberg, and two other firms, Terrago is the name of one, and the other one is in Rottenburg, I believe. These are small firms controlled by I.G.

Q That is your compilation of the six?

A Yes.

Q Will you refer to Exhibit No. 428, that is in the English document book No. 20, on page 21, or if you have Book 32, Your Honors, it is on page 41 of that, and in the German Document Book 19, page 99, or 32 it is page 39. Witness, you have your affidavit in front of you?

A Yes.

Q It is NI-10035.

A Yes.

Q Under No. 3 of your affidavit you contrast I.G.'s share in the planned total investment in chemistry with the total investment of the rest of German industry, is that

correct?

A. No.

Q But what is correct then? What do you do in No. 3?

A I have compared the I.G.'s share with other firms working in the field of chemistry. I did not include the iron foundries, or other types of industry, other than in the particular chemistry industry.

Q No, my question only refers to this total investment in the chemical industry as compared with the total investment of Farben?

A Then I agree with you, yes.

Q Here I must clarify the question of what you understand by the word "investment". Let's consider the following example to clarify it.

A Yes, very well.

Q An American firm is the possessor of a patented process, and for a consideration it issues a license to I.G. Farben; I.G. Farben constructs a factory in Bitterfeld to work this process with a construction cost and machine cost of about ten million marks.

A Yes.

Q Now, I ask you: who is investing, the American firm which issues the license?

A No, the firm that builds?

Q Do you agree with me that the firm which builds, which has the financial expenditures, and which becomes the sole owner of the plant, is the investor?

A Yes.

Q Thank you very much. How about the so-called Reich-owned plants? And here I want to ask you, Dr. Hagert,

do you understand under the term, "Reich Owned Plants" those plants which were built by Reich funds, which were operated for the Reich, but which were administered by a trustee, or by somebody who rented the firm?

A I don't quite understand that question in connection with my affidavit, and I would appreciate it if you would tell me whether you are speaking of stand-by plants.

Q Then I should like to reformulate my question. We had agreed, I think, that the investor is the person who contributes the financial expenditures, and who becomes the owner of the plant.

A Yes.

Q Very well, Is anything changed in that fact when the Reich expends money, builds plants but has these operated by a holding company?

A Then the firm is a renter, and that factory belongs to the Reich.

Q Thank you. The next question. In your affidavit you state that investment figures all those you ascribed to Farben items in which Farben's capital investment exceeded 30%.

A Yes, that is right.

Q I should like to ask you in connection with my first question, which you answered by saying that the investor is the person who expends the money for the construction --

A Yes.

Q What does participation as such have to do with the question of investment? It can have something to do with it only if the investment is made when the firm is founded, and it cannot be included if those new constructions are paid for by foreign capital or are self-financed, is that correct?

A That is correct.

Q Good. Then I may conclude that the extent of participation is important only for the question as to who is to be held responsible for the investment and only for those investments which are made from the foundation capital or from capital appreciation.

A That depends on how you look at it.

Q To what extent?

A If, as I did here, one determines the practical influence of I.G., through its processes and its outstanding know-how on the Four-Year -Plan, this method of looking at the matter is now, as you consider it, based on the source of capital, but means that without the I.G. process there would have been no investment.

Q Witness, you are contradicting yourself. The first principle we have is the payment of the invested capital. That is quite clear. Did you compare investment figures or did you not?

A Of course.

Q You are comparing what Farben expended on the one hand, and on the other hand what the rest of industry expended.

A For non-I.G. processes.

Q Excuse me. This has nothing to do with Farben processes at all. I am now pinning you down to your clear words: "I determined the investment figures" - that is No. 3 of your affidavit - "which were intended for the expansion of production capacities." Do you agree with me that only those investments can be compared?

A Yes.

Q Everything else does not belong here. Just as you said now - and please excuse me, you were a little unclear - when you are referring to

influencing market, you are doing away with any basis for comparison.

A. It is necessary to explain myself here. Under No. 3 at the beginning I said that I investigated the expansion of production capacities planned for I.G. and for the rest of German industry for all chemical products. Moreover, —

Q. Excuse me. I should like to ask you one question. The expansion—

MR. SPRECHER: Just a minute. The right of cross examination so far as I have been advised does not include the right to interrupt the witness in the middle of a sentence.

THE PRESIDENT: Well, that is correct, of course, and if the witness had in mind making a statement which was interrupted by Counsel, he may complete his statement. Were you through, Witness, in answering the question?

THE WITNESS: No, I intended to continue.

THE PRESIDENT: Well, then you may complete your statement.

A. In the first paragraph I defined under No. 3 what I considered as belonging to I.G., those works within the I.G. combine or which were operated by I.G., and this morning I added also firms which were operated under an I.G. license. Th is the point of view which directed my investigations, and it is clearly expressed here. This is why I had to speak now, because this point of view shows quite clearly that I consider firms operating under an I.G. license as belonging to I.G. for the purpose of this investigation. I did not as Dr. Boettcher just said — and that is what this discussion just now is about — base my investigation on the concept of capital, but I think I made my point of view quite clear here.

BY DR. BOETTCHER:

Q. Have you finished?

A. Yes.

Q. Well, I submit to you the contradiction which is contained in your point of view. I may remind you that we have stated and found

out jointly that if one speaks about investment, one can only count as an investor that person who actually expends money and who becomes the proprietor of the factory. You confirmed that in several examples.

A That is true on the one hand, but, on the other hand, it is logically incorrect if you consider that I have just very carefully defined what I mean by I.G. here in the chart.

Q Well, witness, let's postpone this question and let us discuss a practical example. From the products named by you under No. 3 I should like to pick out a few examples and discuss them with you.

A Very well.

Q That is on Page 3 of Document 10035. In the middle of the page in the column "Products" on the left you will see "mineral oil", and you list the following investments: "b) Projects under construction, 572,5" altogether, 437.5 for Farben, 343 for the rest of Germany, and under "c) Projects planned at Present", 520 for Farben and 75 for the rest of Germany. This makes altogether for Farben 957.5, is that correct?

A Yes, that is correct. Under I.G. I expressly designated what the Four-Year Plan, on page 16 of the first edition, 1937, designates as I.G.

DR. BOETTCHER: Please forgive me, Your Honors, for making such a laborious calculation, but I must do it in order to check the figures.

A Very well.

Q Please tell me how you arrive at this figure, 957.5 million marks for Farben?

A I reached this figure on the basis of the material of the Four-Year Plan. I calculated the investments of mineral oil firms working according to the I.G. Process.

Q Do you have Exhibit No. 427?

A That is the Four-Year Plan?

Q Yes.

A. No, I am sorry, I don't have it.

Q. I am sorry. I need this exhibit in order to discuss the matter with you, for every item of production is important, (Exhibit is handed to the witness). Can you tell me, please, Dr. Hagert, how this figure of 957.5 is composed?

A. Just a minute, please. I beg your pardon. I will just look at these figures. That will take me a minute or two.

Q. Yes. If you tell me each separate figure, I shall check your calculation.

A. Yes. I am on page 16-C.

Q. 16-C.

A. Yes, Field of Mineral Oil. It is under B, Plants under Construction or Definitely Planned. Hard Coal Hydrogenation. I.G. or I.G. -Pott process. A) Hibernia, Scholven II, Hibernia gasoline II. In the column Investment I find 1937, 25 million, 1938, 50 million. I add that up and note down 75 million. Under B- I find the same thing. Gelsenberg-gasoline 1 and 2, 60 and 70, which makes 130 million. Then 2) Lignite Hydrogenations, 10, 30, 60 which adds up to 100. On the next page, 16-D, I.G. Process 1 and 2, 30, 40, 10 adds up to 80 million. Brabag-Magdeburg, Menage-Over & expansion, 6 and 4 makes 10 million. Then comes the Fischer plants; we won't worry about them.

Q. May I ask you about the Fischer plants, you did not include them?

A. Not under I.G. but under investments of the rest of Germany.

Q. I see.

A. May I continue?

Q. Yes.

- A. On page 16 f--

Q. 16?

A. 16 f, synthetic lubricating oil, hydrogenation gases, Luoma Plants I and II, investments, 1, 1, and $\frac{1}{2}$; that adds up to $2\frac{1}{2}$.

Q. Yes.

A. Now if I add up all of those figures, I get the total projects under construction, 437.5.

Q. Now what about the next figure, 520?

A. We will look at the next page, page 16g, Planned Plants. I will give these figures: Anthracite hydrogenation, I.G. Pott process, A) Gemeinschaftsanlage Ruhr, 10, 20, and 30, makes 60; B, Gemeinschaftsanlage Sillesia, 5, 20, 35, that adds up again to 60; 2) Hibernia gasoline and Gelsenberg gasoline. Both firms work according to the I.G. process, 70 and 30, makes 100.

Third lignite hydrogenation, I.G. Process, in Mueckeberg, 20, 30, and 50, makes 100.

Oil hydrogenation, Gemeinschaftsanlage Stettin I and II, 30, 50, and 90, adds up to 170.

Finally, C, Gemeinschaftsanlage Hanau 5, 10, and 15, makes 30. Add that up and you get 520.

Q. No.

A. Just a minute. I got 520. Let me recapitulate the figures, 60, 60, 100, 100, 170, and 30.

Q. Yes, yes. That's correct. That would explain the figure 957.5.

A. Yes.

Q. And the other figure, Rest of Germany, 348,75?

A. We will get that right away. Page 16---

Q. That is probably "d".

A. Yes, 16 d, Hydrogenation Fischer plants. Wendel Heringen corporation 2, 61 & 14, 75; Winterschall, Reppellen, Latskendorf, 55, Fischer Ruhr Gasoline, 15, and then Rheinprossen II, 7 and 3 is 10; Chemical Corporation, Essener Anthracite, 10 and 20 is 30; Hoesch gasoline 6 and 16 is 22, DeMendel Heringen, 3, and 12 is 15; Klockner Rauxel Gasoline, 15, Schaffgosh, 5 and 10 is 15. Gasworks, Frankfurt, 7 and 18 is 25. Hydrogenation, Fischer Plant, Gasworks, Hamburg, 10 and 22 is 32.

Krupp fuel, on the next page, Page 16 f, 10 and 25 is 35. And finally, on the same page, under 8, lubricating oil, Fischer Production, Ruhrchemie 1 and 3 is 4.

Q. That is 348?

A. Yes, that's the figure that you read.

Q. Your addition then stands and falls on your interpretation that the expenditures of all of these firms working according to Farben processes must be added to the investment sums.

A. That is the point of view from which I compiled the figures.

Q. Well, but you do agree with me, don't you, that according to the general point of view, the investment sum, that is the expense of the investor, cannot be ascribed to the licensor, that is Farben in this case?

A. In business, of course, that is not the case.

Q. A further example, on Page 4 of your compilation, the last figure from Page 2 of the original, you list an investment sum for Farben for diglycol, 70 millions, do you have that? It is in the middle of Page 4, before "Page 3 of the original."

A. Yes.

Q. And beneath that, an investment sum for Farben, for thiodi-

glycol of 78.5 million Reichmark. You undoubtedly know that that those two products are produced in Trestberg, Gendorf, Schkopau, and Hauls, which really belonged to the Reich, and were only operated on a rental basis by Farben? Is that correct?

A. I must say that as the asterisk shows, these figures were taken from the second issue of the Four-Year Plan. I, of course, did not add anything to what the figures of the second issue of the Four-Year Plan said. There is no indication that it is owned by the Reich or that it is a stand-by plant. I know that Trestberg, Schkopau, etc, belonged to the I.G. or rather were controlled by it, and in my investigation, of course, I put these figures under the heading of I.G.

Q. But you agree with me again, don't you, if we apply the economic concept of investment, that the capital expenditure was made by the Reich, and that from this point of view the investment sum as such must not be ascribed to I.G. Farben?

A. I quite agree with you that if the Reich - which I do not know in detail - expended this money, then the I.G. did not have to invest the money.

Q. Thank you very much. In your statement on Page 3, you list a light metal, namely, magnesium.

A. Yes.

Q. And here again you calculate that Farben invested 100 per cent; that is according to the Four Year Plan, isn't that right?

A. Yes, that's right.

Q. Now may I ask you the following: Why did you not include the production share of another light metal, namely aluminum, for Farben? You left it out.

A. Just a moment, please.

Q. May I help you? Investments for aluminum can be found on Pages 4f and the following.

A. Thank you.

Q. hf, hg, and hh.

A. The investment for aluminum is on page hh,

Q. Now, Dr. Hagert, I may ask you as a chemist that the expense for electrodes for aluminum must also be counted, and for alumina.

A. Yes, of course.

Q. That is why I quoted hf. That is electrodes for aluminum, hg is alumina, and hh is aluminum as such. I am asking why you left out aluminum, because, aluminum and magnesium are such related light metals, that they cannot really be separated from each other.

LR. DUBOIS: The question is objectionable, if Your Honors please, because in the affidavit the item is magnesium, and he is giving figures only on magnesium. The reference to the detailed charts show different charts, one for aluminum, and a different section heading for magnesium.

Now if I understand the nature of the question, he is seeking to refer to aluminum as affecting the magnesium figures, and in that respect, I submit, the question is objectionable as having a factual foundation different from that which is in the affidavit. There is only magnesium in the affidavit, and nothing on aluminum.

1 Oct 47-17-1-A-A-H-Stewart (Katz & von Schon)

DR. BOETTCHER: May I explain, the, Your Honors, why I put this question. It was for the following reason, namely, the share of magnesium has correctly been calculated as 100 per cent for Farben Aluminum, a light metal of a similar nature, however, can only be calculated as 4 per cent of participation of Farben, so that an entirely different statistical picture will result if the closely related aluminum is taken into consideration together with magnesium.

I wish to prove that this statistical table was ruled by a certain tendency, and I shall prove that by another example. That it is the reason why I must ask about aluminum.

THE PRESIDENT: The Tribunal cannot tell just how significant this matter is, if it has any significance, but within reasonable limitations we will permit the inquiry, and the objection is overruled.

BY DR. BOETTCHER:

Q. Dr. Hagert, may I ask you then, why you left out aluminum?

A. I didn't include aluminum under the products which I added up. I just heard that what I am supposed to have done here is supposed to have a certain tendency. I must comment on this assertion.

THE PRESIDENT: That will hardly be necessary. If any comment is desired, you will be asked to comment.

THE WITNESS: Very well.

BY DR. BOETTCHER:

Q. Then please tell me, and you may agree with me, that the entire expenditure for aluminum, according to pages 4, f, g and h, altogether amounted to about 205 million?

A. That's the case, yes.

1 Oct 47-17-2-A-ALH-Stewart (Latz & von Schon)

Q. 4f 24, 4g 79, and 4h 102.

A. Yes.

Q. And it is correct that in these 205 million marks, Farben was participating only with 4 million marks, or 2 per cent?

A. That's right.

Q. Thank you. Another example which I shall put to you under the proper aspects, - in order not to have any objection, - that is the coloring of the statistics. In the second place on Page 3 you are speaking of cellulose wool. That is just above magnesium. You find it?

A. Yes.

Q. And you calculate the investment of Farben with 54.7 per cent, which is correct.

A. Yes.

Q. Is it true that according to the Four-Year Plan, Farben was intended as producer of the artificial silk used for cellulose wool. That you will find on page 3 c and 3d. A 30 to 40 million marks were to be expended for this total field. I find no assignment to the individual firms, where I. G. Farben appears to a lesser extent. Therefore, in compiling the figures on Page 2 of the original, I found it necessary to add a sentence of explanation reading, "stand-by plants and plants where it was not yet certain what firms were to build and control them are not included in the table."

The total investment in the chemical field for the latter amounts to 177 million marks. I had to add this figure of 30 to 40 million to these 177 million, since a division among firms had not been made, and moreover, in this copy of the Four-Year Plan, there is also a line under construction time, which indicates that something is

1 Oct 47-17-3-A-AEH-Stewart (Katz & Von Schon)

being built. For the individual firms there are no assignments.

Q. That is correct.

A. Then I was in no position; but in order to answer the objection that I make distorted and incomplete presentations here, which I had no intention of doing, I considered it necessary to make this reference and to indicate this figure which, for lack of evidence in the Four Year Plan, I was not able to assign, from my point of view, and I should like to add that these 177 million marks amounted to 5.2 per cent of the total sum and cannot change the over-all picture.

Q. Your last objection is correct, but you must take into account that I am only quoting examples and that to save time,

A. But... I do not discuss all of the figures which I might have to criticize.

Q. One minute please. You have pointed out correctly that you have indicated only a global figure, that is 30 to 40 million marks, But one can also estimate, according to statistics; isn't that right?

A. That's right, yes.

Q. And if you will be kind enough to turn to column 3 c on the left, in the Four-Year Plan, next to the investments, where the total production is short, then you will arrive at an increase of total capacity until 1940 for Farben. I do not have to calculate it in detail, I have checked it, they are numbers 2, 3, and 4, and then again numbers 18 and 21, and you arrive at a total figure of 2.1 million marks, and related to 40 million marks that represents only 5 per cent. You see then that decisive figures are important here.

1 Oct 47-17-4-A-AEH-Stewart (Katz & von Schon)

A. Excuse me, I would like to say something. In this Four-Year Plan, this document, on Page 3c, at the bottom, under No. 2 at the left, there is a remark, "Expansion of existing capacities, or new construction" there is a footnote II, "distribution to individual plants is not yet certain". The same remark you will find again on the next page. "See footnote on preceding page." In the calculation that you have just made, you have not considered this increase of capacity of 10 and 2, that is 12, which is, after all, 20 per cent or perhaps even more of the total of about 65, of the existing plants. It is 53 before we had the expansion of 12, which of course also has to be distributed among the plants. You will see, Doctor, that even estimates such which you have just attempted to make, with the best of intentions, cannot be done, not even an estimate, because one cannot know how these 12 are to be divided. I quite agree with you that what you have just done can be figured in that way, but I should like to point out that you were probably acting on the wrong premise, because the figures which you have just reached are not an expansion, but the existing capacities. Capacity is not always reached in technical production. You will see that my idea is correct, because all of the figures which you are taking as expansion agree with the total production in 1937.

Q. It is not necessary to go into these details. I shall leave this affidavit and go over to Affidavit 10036; only a short question on that affidavit.

This affidavit 10036 is based on the figures which are found on Page 27 of the Four-Year Plan, a Financial Survey of the Period from 23 October 1936 to 20 May 1937. Is that correct?

A. Yes.

Q. Is that correct?

A. Yes, yes, 27.

Q. The following question: Under No. 2 you have under chemistry, "Power", 51.65 million. I should like to ask you, what has power got to do with chemistry?

A. I understand why you ask this question, and this morning I wanted to say something about that, but it was premature.

THE PRESIDENT: Mr. Witness, will you just please try to answer that question directly with no explanations about what happened this morning, please? Do you understand the question, witness?

THE WITNESS: Certainly.

THE PRESIDENT: Very well. Please try to answer it directly and briefly.

THE WITNESS: Yes.

A. (Continuing) "Power, 51.65." This figure which is given here in this financial survey is, of course, only a partial figure of the total project under power in the Four-Year Plan. Therefore, I will turn to the pages on Power.

In considering this matter one sees that the projects under power affect to quite a large extent the power plants, which are connected with chemical production.

BY DR. BOETTCHER:

Q. What page is that?

A. That begins on Page 19-A. That gives a total survey, and then it probably starts on the next pages. On the next page, 19-B, we see

seven categories, including alumina. Page 19-C, Gas Works Frankfurt, Fischer Plant, Hanau, Hoechst - obviously G. Hoechst, I assumed - expansion. Now I look at the next page, 19-D, Power Plant Fortuna, Union Cologne, lignite hydrogenation."

Q. Thank you very much, witness: that is enough of an explanation. But I can state here that once again you have deviated from the customary economic concept of capital and investment sums, and once again you have included the licensees in your calculations. For instance, Frankfurt.

A. I beg your pardon. That is not quite true. Here I have contrasted - and this is what your question refers to - amounts of the chemical sector and of the non-chemical sector. The principle from which we have to start, Doctor, is not a question of capital but a determination of the participation of chemistry in contrast to the rest of the economy.

Q. Oh, I see. You started from the chemical field?

A. But you can see that from the figures, can't you? For instance, if I list Leverkusen Sodium, although it is a power plant, I have taken the liberty of putting that in the field of chemistry, since it produces sodium...

Q. We are not disputing that point. I have only one more question on No. 6, that is textiles. According to Page 27 I am interested in finding out the expenditure, quite apart from your global calculation, which might be ascribed to Farbon.

A. Yes.

Q. Under textiles I find "Own Financing." In this column there is nothing. Then under "Expenditure of Shares and Stock Corporation" I find 28.55. Then under the column "Intended Plans", 619. This is all in millions of Reichmarks. And I am asking you whether such an expenditure can be ascribed to Farbon, if I tell you that during that time Farbon did not increase its capital at all.

A. If that is true, then these stock matters can, of course, not be ascribed to the I.G.

Q. And the same applies also to those points, Loans Mediated by the Office and to the column, Lost Subsidies of 1859, a loan of 25.35 millions, since Farben did not receive such loans or subsidies at all?

A. If that is the case, which I cannot judge---

Q. Yes; so that at the most Farben can only have ascribed to it a share in the debits which are listed at 15 million Reichsmarks.

A. Yes.

Q. And without wanting to dispute with you what share of these million could be ascribed to Farben, with 70 million, this would represent a much smaller percentage than you have calculated at 66.5% for Farben. That is at the bottom of your affidavit.

A. (No response.)

Q. Witness, the following is important to me. I should like to help you and clarify my point of view.

A. Yes, please do.

Q. You have calculated these figures globally and schematically?

A. Yes.

Q. I should like to clarify, with the aid of a concrete example, that actually Farben's share was less than you have calculated in your global and abstract figures.

A. I understand that.

Q. Yes, that is correct. You agree with me?

A. That you endeavored to present it in that way, but it is also true that my method of determining a whole chemical sector, and a conclusion which I form on the basis of the total participation of what is designated as I.G. in the Four-Year Plan, is also correct. They are two things which you quite correctly are trying to prove by concrete examples do not agree in time.

Q. Quite correct. We agree then that the concrete calculation

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arrives at an entirely different figure than the abstract calculation?

A. In this period perhaps,

DR. BOETTCHER: Thank you very much,

THE PRESIDENT: We will take our afternoon recess before the next
counsel proceeds.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Is there to be any further cross examination of the witness?

BY DR. BERNDT (for the defendant Ter Meer):

Q. If I remember correctly, Mr. Witness, you stated this morning that from the middle of 1937 until the end of 1939 you had been active in the mobilization department with Dr. Ungewitter?

A. Yes.

Q. May I ask you what you were doing there?

A. I was a consultant expert on the questions connected with war economy.

Q. What did they do in this department, mobilization plans ?

A. Yes, among other things.

Q. Would you please be kind enough to tell me what did the mobilization plans look like?

A. By a mobilization plan we meant a number of factories which in the case of a possible mobilization they would produce specified amounts.

Q. That is to say such a mobilization plan dealt with the production of a definite and certain plant. Is that correct?

A. Yes.

Q. Did all firms in chemical industry have such a mobilization plan?

A. No, not all of them.

Q. What plants did have such a plan and what plants did not have such a plan?

A. According to a distinction which was made at the time, whether the product of these plants were vital or whether they were secondary products which produced in peace time, for example: cosmetic firms and perfumes, - they did not get any mobilization plan.

Q. Well, you said just now that they were not given any

mobilization plan. Does that mean that the office of Ungewitter sent such a plan to these firms?

A. Yes, that was the plan. This work was done on behalf of the Reich Ministry of Economics and the executing authority in the chemical field was Dr. Ungewitter and so far as the firms were concerned they were not so important that they were taken care of directly by the Wehrmacht. To make that clear to you I may mention the designation which is used in the terms R and KL concerns, in which they were divided at the time, that is, so-called industry concerns, R and KL, a designation meaning vital. In the third category were firms which were neither R nor KL concerns and the further treatment of the firms depended on it.

Q. To what did Farben belong? What kind of plant did Farben belong to?

A. I can answer the question like this. I.G. as a whole did not belong at all to it, but only individual plants, because the work was done on the basis of plants. The I.G. plants were for the most part KL plants. If I remember correctly, they were all KL plants, but I am not quite certain about that. Only some Dynamite A.G. Nobel were so-called R. concerns, but the plants under I.G. Farben were almost all KL.

Q. If I understand you correctly, then the Hoechst and Leverkusen plants were KL plants?

A. Yes.

Q. And for that particular plant a mobilization plan existed?

A. Yes, a so-called mobilization plan.

Q. Who drafted the mobilization plan for the Hoechst plant?

A. I have to tell you something about the technical aspect of this work

THE PRESIDENT: Mr. Witness, please, if you can, tell counsel who drafted the plans for the Hoechst plant. If you can not, say you cannot.

THE WITNESS: The production statistics were acted on by the firms. There were discussions with the firms, Dr. Ungewitter and representatives of the other agencies participated in these discussions, and from the Reich Ministry of Economics, men from the Thomas Office, the Military Economic Staff, and for the individual products a figure was set on which production was to be based in the event of war.

Q. What gave the instigation for these discussions?

A. They were instructions from the Reich Ministry of Economics.

Q. Is that the Military Agency?

A. I don't know. Dr. Ungewitter was only under the Reich Ministry of Economics.

Q. Yes, just as for each of the plants of Farben, mobilization

plans were drafted, mobilization plans were also drafted for other chemical plants in Germany?

A. Yes, of course.

Q. For instance, for Schleidealtadt, for Schering and others?

A. Yes.

DR. BERNDT: Then I have no further further questions.

DR. SILCHER: (For Dr. von Knieriem).

Q. Dr. Hagert, in your affidavit NI-9052, Document Book II, page 61 of the English Book - I don't have the German number or page, but you probably have it there?

A. Yes.

Q. That is on page 62 of the English Book, you say that in 1926 Farben issued an amount of shares-capital of 1.1 billion Reich Marks?

A. Yes.

Q. Is this the amount actually spent, or only the nominal figure?

A. This figure 1.1 billion was set by the General Congress of I.G. by I.G., an increase of the original capital, 646 million, I remember, and I can speak from this that under the books of the corporation, or firm, that an amount of 100 million, I believe, was not expended, but the nominal capital to which I refer to here was 1100 million, at the time.

Q. Do you know of the so-called preferred shares in German stock Corporation Law?

A. Yes.

Q. I don't consider this the place for discussing this in detail on the law, nor how it was developed, but I should merely like to put to you that actually from those 1.1 billions Reich marks, 160 million shares of so-called preferred shares were at the disposal of the enterprise, about 35 millions were preferred shares B also at the disposal of the enterprise.

A. Yes.

Q. And the amount of original shares of common stock of about 100 millions were determined for exchange purposes, which determined the later working capital. That is, of course, of about 300 millions Reich Marks which were not actually spent at all?

A. That is possible.

Q. We shall explain that later. If you look at these 1.1 billion Marks, then there are about 800 million actually spent shares, and 300 million shares which were at the disposal of the enterprise? If you compare ---

MR. AMMAN: Your Honor, I'll have to object to this line of questioning. He is referring to documents on which the witness has not predicated his affidavit. He is reading from an I.G. Farben book, which would indicate he is predicating his figures from an official handbook, and the questions seem to be testimony and on the direct examination, so I submit they are not proper on cross examination; no foundation has been laid based upon the testimony now in the record, and not on interrogating matters in which the witness has given testimony for his affidavit.

DR. SILCHER: May I say that I actually know these figures by heart. I read them off of the documents, but I would have been able to put these figures to the witness out of my own memory.

THE PRESIDENT: It is proper to remind counsel of what we said at the beginning of this session, that your inquiries must of necessity be limited to cross examining the witness with respect to contents of these affidavits, and such testimony as he gave in chief since he went on the witness stand, so unless you are referring to figures that are found in the affidavits, the inquiry would be improper. The objection will be sustained.

BY DR. SILCHER:

Q. Dr. Hagert, I will ask you about this figure of 1.1 billion

Reich Marks, which we have just now split up jointly. This figure is then compared with some share-capital of other German chemical firms?

A. Yes.

Q. "could you want also to split up these shares, that is shares which were not actually spent?

A. I would not assume so.

Q. I agree with you, that is so. One would have to take these figures now indicating 75 millions, and not put up Farben's 1.1 billion marks to 300 million Reich Marks?

A. One could but the conclusion here that this ten percent in the figure would not be affected.

Q. That is a separate question. Don't you believe that among this list of firms you might have incorporated a few other chemical firms, Henkel and Wintersall for example?

A. Of course, those are very important works. I was only able to deal with joint stock companies and here it talks about stock capital; that is, so far as Wintersall, most of its production at least at the time I am speaking of here was not in the chemical field.

Q. That is, at that time. That to the question on nitrogen, I should like to ask you a few questions, as I don't think that the picture is quite in accordance with truth yet. I don't think we can here clarify everything. My impression of your statements so far is about the nitrogen and Farben which are significant.

MR. SPRECHER: Your Honor, I must say we have attempted to avoid objections where there has been long speeches by counsel, but in this particular instance we have had so many speeches by Dr. Silcher in connection with his questions previously that I feel compelled to object. We are not interested here in Dr. Silcher's opinion as of now. If he were to take the witness then it would be very likely, and prove well being very relevant thing for the defense counsel to arrange but that should come at a later time.

THE PRESIDENT: That objection is well taken by counsel. The counsel for defense are to state questions to the witness, and not volunteer facts to the Tribunal . You may proceed.

BY DR. SILCHER:

Q You know that the nitrogen Syndicate was existing?

A Yes.

Q Do you know what the share of Farben was in these quotas?

A Just a moment, I.G. had the biggest quote there. The
quota.....

MR. AMCHAN: I am sorry, if your Honors please, there is
nothing in the affidavit on the nitrogen syndicate and the nitrogen
cartel and we have not elicited any information from this witness on
that subject matter.

THE PRESIDENT: What does counsel for the defense say with
reference to the observation that the present inquiry is not about the
affidavit?

DR. SILCHER: The question of these contingents depends
entirely on the question of production share and Farben's significance
in the nitrogen question as such.

THE PRESIDENT: Is that a subject that is embraced in any of the
affidavits under inquiry?

DR. SILCHER: The question of the significance of Farben's
share in German production of nitrogen is a part of the affidavit, yes.

THE PRESIDENT: Then the objection will be overruled. Counsel
may proceed.

MR. AMCHAN: I will withdraw that objection.

BY DR. SILCHER:

Q The question of these quotas.

A I don't have the figures before me. I would have to have
some business books of the I.G.

Q The details are not so important: 58%. Can that be
correct?

A I couldn't say it from memory; I would have to have some
basic document.

Q You can't say whether it may perhaps be correct as far as

the order of magnitude is concerned?

A I can't say that from memory.

Q Do you know other groups within German nitrogen production which were active in the nitrogen syndicate?

A Yes, of course. First, the calcium nitrogen group; the second group is the coke ammonia works and third is the smaller groups which come from the works of the East, fourth, the smaller works from the East...

Q Didn't you leave out the synthetical firms in the Ruhr?

THE PRESIDENT: Just a minute, please. You will have to slow down the tempo a little bit here. It is putting too much of a load on the translation staff.

BY DR. SILCHER:

Q These synthetical firms, that is, the Ruhr Chemical Industry, did they have anything to do with Farben?

A No; from the economic point of view, no. Some of these firms worked according to I.G. processes. Originally they probably had other processes but later they adopted I.G. processes.

Q The entire Ruhr did that. Did Farben have anything to do with the coking plants?

A No. They had ammonia as a by-product just as the gas works did.

THE PRESIDENT: Just a moment, please. Just a moment. Now, Mr. Witness, if you will please remember the admonition. When you said "No" you answered the question and you will save us a very great deal of time if you will just say "no" and stop if that is the proper answer and wait for another question.

BY DR. SILCHER:

Q Did Farben have anything to do with the Gas Works?

A No.

Q How about the calcium-nitrogen group? Previously two firms were named, if I remember correctly: The Bavarian Nitrogen Plants which

you count as part of Farben; is that correct?

A Yes, Bavarian Nitrogen Works. According to the material available to me, their capital was in the hands of the Leuna Works.

Q Yes, that is correct. One can count them as part of Farben in that sense. Then Knapsack A.G., a nitrogen fertilizing company. Was that also part of Farben?

A Yes.

Q Wasn't there also a third firm in this field?

A I don't know exactly. Lonzeu, I think.

Q I am not thinking of Lonzeu. I don't know that myself, but don't you know another firm which is undoubtedly larger in this field, the Sueddeutsche Kalkstickstoff Werke in Trostberg?

A Yes, that is something new. It was established in 1939; yes, you are quite right in that sense. Originally it was Schutz Werke under the Bavarian Nitrogen Works. In the list which I have here in the passage before the outbreak of the war it was included under the Bavarian Nitrogen Works.

I believe it was in August, shortly before the outbreak of the war, that the Southern German Gas Union Nitrogen Works were founded. The I.G. had 30% and the rest was with the Reich Group.

Q Did the Sueddeutsche Kalkstickstoff Werke not also exist before 1933 under another name?

A It was founded at that time but there was another plant in Haardt which was operated by the Bavarian Nitrogen Works. Its management was in the hands of the Bavarian Nitrogen Works.

Q Did this enterprise not exist previously under the name of Bayrische Kraftwerke A.G.?

A Yes, that is quite right. The Haardt Works belonged to the Bayrische Kraftwerke but the management was in the hands of the Bayrische Stickstoffwerke, the Bavarian Nitrogen Works.

Q Yes, the plant management, that is so. Was this plant operated for the Bayrische Stickstoffwerke so that its production could

be ascribed to and calculated for Farben?

A I do not believe that that has any connection with my affidavit. I was not talking about the management of the works.

Q I believe that you did. Dr. Hagert, we are concerned with the question to what extent German nitrogen production can be ascribed to Farben and its firms. That is why I consider the question important, whether the production which was carried out under the management of the Bayrische Stickstoffwerke could actually be ascribed to the Bayrische Stickstoffwerke or should be ascribed to the Bayrische Kraftwerke, which did not belong to the Farben and which was later called the Sueddeutsche Kalkstickstoffwerke. That is why I would like to have you answer my question.

A Since the management of Haardt was in the hands of the Bayrische Stickstoffwerke one is justified in including it under the Bayrische Stickstoffwerke; but if, on the other hand, the production went to the Reich, it would be possible to include these figures elsewhere.

Q Very well. We shall clarify that later in our evidence. In order to emphasize this once more, the Sueddeutsche Kalkstickstoffwerke, which received this name only shortly before the outbreak of the war, was a re-formation of the Bayrische Kraftwerke. Was there any Farben participation in this plant?

A About 30% which is either in the hands of the I.G. or in Merseburg, according to my information.

Q Do you know since what time a participation existed?

A I don't know. I assume that it started in August, 1939, because the Bayrische Stickstoffwerke got the work at Trostberg.

Q That is not correct, but we will have to show this in some other way. And where did the remaining 70% lie?

A With the Reich.

Q Could you specify this more in detail?

A With the Fiag, I think.

Q Yes. Can the Flag be counted as part of Farben?

A No.

DR. SILCHER: Thank you very much.

DR. SCHUBERT: Dr. Schubert for Dr. Buergin.

BY DR. SCHUBERT:

Q Witness, I should like to put a few short questions to you. From your affidavit NI-9052, which is Exhibit No. 51 of the Prosecution — do you have that affidavit?

A Yes.

Q Would you please turn to Page 5 of the mimeographed text? That is Page 4 of the original. You will find a list of factories which as you explain on the previous page, are plants owned by Farben and others which were controlled at least 50% by Farben. Under Light Metals you list ten factories. Did you find that?

A Yes.

Q Can you tell me, please, what plants you had listed here so that you arrive at this figure 10?

A First of all, four plants that belong directly to I.G. — Aken, Bitterfeld, Stassfurt, Teutschenthal. Besides that, plants in which I.G. had either 100 or 50% participation; Metallwerke Michler GMBH — The Casting Company, some light metal works, The Pulverfabriken Company; finally, a Light Metal GMBH, I believe. I don't have that material here but that is how I arrive at the number 10.

Q You cannot explain it in detail just now?

A I got this figure on the basis of the material at my disposal.

Q May I ask you this in connection with this question: Do you know what they produced in Teutschenthal?

A An intermediate for magnesium, I believe.

Q Yes; and what is this intermediate?

A I wasn't in Teutschenthal.

Q But at any rate they didn't use any magnesium there?

A No, no; an intermediate.

Q And then you have also named the metal works Michler in Leipzig, the Metallguss G.m.b.H. in Leipzig, and you list these two firms on the next page under participation, Farben participation, separately.

A Quite right.

Q Do you know, witness, that the firm, Metal Work Michler G.m.b.H. in Leipzig was a so-called empty shell, that is to say, a firm which was only registered in the list of firms but did not have any property of their own?

A I am not aware of that.

Q No?

A No. I only know from the Farben material which I had that they had something to do with light metals, and for this reason in an attempt - in dealing with the whole list of firms, I listed this firm under the heading of the light metals. I don't mean to say that this firm actually produced magnesium or aluminum, but I just want to explain how I came to do it.

Q Yes, thank you, that is clear. Witness, will you then please turn to your affidavit, Document No. NI-10013, which is prosecution exhibit 428. I have another question about your method of calculation. When listing the investments you have incorporated those firms in which the capital share of Farben exceeded 30 percent, in those participating with 100 percent, and those which participated with less than 30 percent you have listed them with the corresponding percentage?

A Yes, that is right.

Q First of all, something is not clear here. Where did you put those firms which participated with exactly 30 percent shares?

A I put them with the 100 percent ones, the chemical factory of Holten, but I should like to add that this is very insignificant, but I counted them as 100 percent.

Q Witness, you will admit that you employed two different

methods of calculation, and that you have confused these methods. On the one hand you started out from a capital investment of more than 30 percent and you listed it as 100 percent participation, and then those which are less than 30 percent you only list with the corresponding percentage.

A I just said that I carried out a method of calculation with which I determined the plants which had 30 percent or more and determined whether they would change anything materially in my method of calculation, which I have mentioned before, and I observed that there is no considerable change. I will be glad, in case you are of a different opinion, to explain that to you.

Q Witness, you didn't answer my question. I didn't ask you whether that constitutes a material change, but whether you admit that you employed two different methods of calculation.

A Yes.

Q You made an addition here that in your test, and as you have said today, you included all those firms which were operated by a Farben license. Did I understand you correctly?

A Yes, but that refers only to mineral oil.

Q Oh, only mineral oil. Do you have Prosecution Exhibit 427? That is the four-year plan draft. Well, I should like to hand it to you once more. There is only one question about this, witness. Would you please turn to Page 20-L.

A Yes.

Q You will find a column there, "Decontamination of chlorinated calcium". Do you find that?

A Yes.

Q In your list here you computed Farben's share as 28 percent - oh, oh, excuse me, 50 percent.

A Yes, that is right.

Q What plants of Farben do you include here?

A That would be Gersthofen and Fuerstenberg.

Q What plant?

A Fuerstenberg.

Q Fuerstenberg?

A Yes.

Q Is that a plant of Farben or is that a plant in which Farben participated?

A I may remark that this four-year plan refers to planning. Whether these plants actually were built I do not know, but I should like to point out that on another page of this document this four-year plan, if you would look under rubber, i.e., Buna plants, you will find the name Fuerstenberg, where some Buna plant was to be built, but since Buna was produced only by I.G. it was known to me, of course, and besides I know as a chemist that Buna is, of course, used, produced by the use of chlorine. It was quite clear to me that chlorinated calcium had to be produced from some chlorine by-products. That was why when I saw, made an assignment here that led me to assume that the Fuerstenberg, which, as you see — at least the plant was to be completely new — was connected with a Buna plant which was to be built at Fuerstenberg, and that is how I came to put Fuerstenberg under the I.G. complex.

Q That was the only reason you had for doing that?

A That was my reason, yes.

Q Whether a Farben plant for decontamination of calcium hypochloride was actually planned or not you do not know?

A No.

DR. SCHUBERT: I have finished my cross-examination.

BY DR. REINTGES (For Dr. Bustefisch):

Q Dr. Hagert, I should like to revert once more to Exhibit 428 with one brief question. That is NI-10035, Volume XXXII, on Page 41 of the English Document Book, Page 39 of the German book. In the cross-examination by Dr. Boettcher you stated that your point of view of an investment deviates somewhat from the concept of investment which is

customary in industry generally. I should like to ask you one question which will illustrate the practical significance, and for reasons of expediency I should like to use figures again which have already been discussed. On Page 3 of the mentioned document under "Mineral Oil" an investment sum of Farben for plants to be built is 437.5 million, and for projects which are being planned 520 million, which is altogether 957.5 million, is that correct?

A Yes.

Q If we do not use your point of view now as to what an investment is, but if we use the point of view which you have designated yourself as the one generally accepted in industry, then we must ask which of these projects were enterprises of Farben, that is to say, enterprises which Farben erected with their own money and whose proprietor Farben was. Would you please be kind enough to list these enterprises once again briefly? Perhaps you remember them, then I don't have to list them once more. Otherwise I might read them to you because I have written them down.

JUDGE MORRIS: Just a moment, I am wondering whether that question is really fair to this witness. He has given his testimony on the basis of his calculation. Counsel for the defense, no doubt, disagrees with that basis of calculation, but I doubt if it is a proper question to force the witness over into the use of the defense counsel's basis of calculation. That is something which, of course, counsel would have the right to show in their defense, but I seriously question whether that is proper cross-examination.

BY DR. REINTGES:

Q. May I then confine myself to the question of facts alone. Which of these plants was an enterprise of Farben? Do you still have these separate projects in your mind or do you want to hear them once more?

A. Please.

Q. Perhaps I should read them in context.

A. That's not necessary. I can find them.

MR. ANCHAU: Your Honor, I think counsel is beginning to testify in his own behalf and has gone beyond the bounds of cross examination.

THE PRESIDENT: Well, there is really no question yet before the Tribunal. Counsel, will you please reform your question and make it direct in the interest of time here.

DR. REINTGES: I wanted to ask the witness which of the enterprises that he listed is an enterprise of Farben, owned by Farben. That's the question I wanted to put to him.

THE PRESIDENT: Very well.

DR. REINTGES: But I can simplify it by asking him whether it is correct that the sole enterprise which was owned by Farben was the lubricant enterprise in Lenz.

MR. ANCHAU: I think, in the process of formulating the question, counsel is testifying.

THE PRESIDENT: Well, counsel on cross-examination does have the right to assume facts. The rule is more liberal than in direct examination.

Counsel, can't you call off the plants you're concerned about and ask him directly whether they were or were not owned by Farben and get to this directly?

BY DR. REINTGES:

Q. Your Honors, I wanted to save time and not read a long list.

Is Hibernia a Farben plant.

A. No.

Q. Is Gelschhofen a Farben plant?

A. No.

Q. Is Stinnes a Farben plant?

A. No.

Q. Is Rheinbraun a Farben plant?

A. No.

Q. Is Brabag an enterprise of Farben?

A. No, I.G. has a certain investment in it.

Q. The common enterprise Ruhr was only a plant?

A. That's right.

Q. Is it true that it is a consolidation of the brown coal industry in the Ruhr?

A. Yes.

Q. The common enterprise Upper Silesia - is that a consolidation of hard coal Upper Silesia?

A. Yes.

Q. Hibernia - we have already had. Is Bubiag a Farben plant?

A. No.

Q. How about Stettin?

A. I.G. had an investment.

Q. Only a participant.

Is Hensau a Farben plant?

A. No.

Q. Then the last fact. How about the lubricant plant in Leuna?

A. That is an I.G. plant.

Q. Thank you very much.

Then, it is correct, of the 957.5 million RM, only 2.5 million are investments of Farben?

A. Of a plant which belongs to I.G., that is true.

Q. Thank you very much.

BY DR. HENZE (Defense Counsel for defendant Oster):

Q. Dr. Hegert, I have before me the previously discussed affidavit, 9052, where you say, on page 2 of the original:

"Germany succeeded, under the leadership of I. G., not only in becoming self-sufficient in regard to saltpeter but in pushing Chile from the world markets."

Later you quote Chile's export quota to Germany as about 4% of the total German requirement and you have previously said that before Germany was dependent on Chile.

A. That's right.

Q. Witness, can you tell me during what years approximately this development took place which, according to your opinion, caused Farben to be squeezed out?

A. Farben to be squeezed out?

Q. I beg your pardon. Caused Chile to be squeezed out by Farben?

A. Before the first World War, Germany and most other countries obtained saltpeter from Chile. Through the development of the Haberbosch process, Germany and many other countries which applied this process and other processes gradually became independent of this source of Chile saltpeter.

THE PRESIDENT: Witness, counsel asked you, during what years only. Can you answer that?

THE WITNESS: After the World War.

BY DR. HENZE:

Q. That's the time between 1918 and 1925? Is that correct? Or 1925 to 1930?

A. I would say 1925 to 1930.

Q. Witness, do you know that the share of Chile saltpeter in the entire consumption in Germany, from 1919 - 1938 - 1939 increased from 3,200 tons to 26,600 tons?

A. No, I did not know that.

Q. If I,...Excuse me. I will formulate it this way. Do you know that Germany's consumption increased from 159,000 tons in 1919 to 718,000 tons in 1938 to 1939?

A. Nitrogen you are talking about, yes.

Q. If you compare these two figures - that is, the share of Chile saltpeter with that I mentioned - do you then agree that Chile did not only participate to the same extent but also was also able to enlarge its quota?

A. Would you please repeat the Chile figures?

Q. Chile increased from 3,200 to 26,600 tons.

THE PRESIDENT: Have you completed your question, counsel?

DR. HENZE: Yes.

THE PRESIDENT: Do you understand the question?

THE WITNESS: Yes.

THE PRESIDENT: Can you answer it?

THE WITNESS: I can answer it, but not with "yes" or "no".

THE PRESIDENT: If you cannot answer it "yes" or "no", answer it the best you can.

BY DR. HENZE:

Q. Excuse me, Dr. President. I asked the witness whether he agrees with me. I believe that such a question can be answered by "yes" or "no".

A. Your basis of comparison of the increase by 1300% from the year 1919 - of course, the participation of Chile in saltpeter increased much more than the approximately four and one-half times increase of the total consumption, but to make such a comparison I consider unfounded. The year 1919 was a year when the war had just finished, when there was not much shipping between Chile and Germany. There's more justification in taking a peace year like 1913 where one can see that the importation of saltpeter to Germany was very important.

Q. Excuse me, witness. You stated just now that the condition that

Germany squeezed Chile out took place after the World War. That's why I confine myself to the time when Germany is alleged to have done this under I.G.'s leadership, but, in order not to remain with the subject too long, I should like to ask you something else.

A. Please go ahead.

Q. Do you have an idea of the sale of saltpeter which Chile had after the war in other countries?

A. Yes, but it's not here at the moment.

Q. Excuse me, witness. Maybe you remember it if I put figures in front of you now. Do you know that after the World War, Chile's part in nitrogen sales in England decreased from 22% to 6%?

THE PRESIDENT: Just a moment, counsel for the defense, how do you reconcile that question with any statement contained in the affidavit. In other words, are you inquiring about anything that appears on the face of the affidavit?

DR. HENZE: Mr. President, the witness stated that Farben, or Germany under Farben's leadership, pushed Chile from the world markets, and it is my intention to submit a few figures to the witness about the sale of Chile's saltpeter in the various countries in order to ask him some questions later from which I can conclude that the witness's assertion is not true.

THE PRESIDENT: That's proper cross examination. So, pardon the interruption, and will you now repeat the question in the interest of time. Start over again.

BY DR. HENZE:

Q. Do you know, witness, that Chile's saltpeter sale in England decreased from 22% to 6%?

A. That is possible.

Q. Thank you. Do you know that in Belgium it decreased from 57% to 10%?

A. That is also possible.

Q. Do you know that it decreased in Holland from 53% to 9%?

A. That may also be true.

Q. In Czechoslovakia, from 46% to 4%?

A. That may be.

Q. And in Poland, from 35% to nothing?

A. That may be.

Q. Are you of the opinion, witness, or perhaps can you tell me, what facts caused such a decrease in those countries?

MR. AMCHAM: If your Honors please, the witness has already testified. He said: "It's possible". The question, I think, is improper under the circumstances.

THE PRESIDENT: Well, the question may be technically improper, but I think the witness is capable of handling his answer. Let him answer if he can.

THE WITNESS: I only answer questions which refer to my affidavit. I may read what I said here:

"The dominating position of the Interessengemeinschaft into which the two then existing Interessengemeinschaften had amalgamated in 1916 was increased considerably by the development of the Haber-Bosch process for the production of nitrogen from air."

That's the quotation, and if I may add - in 1914. "Under the leadership of I.G., Germany succeeded not only in becoming self-sufficient with regard to saltpeter, but beyond that, in pushing Chile from the world markets."

Of course, any development of a new synthetic procedure, whether it is the Haber-Bosch process, whether it is the calcium nitrogen process of Frank and Caro, created products which were sold on the world markets and that, of necessity thereby, Chile in saltpeter was pushed out. This occurred not only in Germany, but everywhere. That is the contents of my affidavit.

1 Oct ~~AJP-24-7~~ Leonard (Int. Katz & von Schon)
Court VI Case VI

THE PRESIDENT: The Tribunal will at this time rise until 9:30
tomorrow morning.

MR. ANGHAN: It's 10:00 o'clock, Your Honor.

THE PRESIDENT: Until 10:00 tomorrow morning.

(A recess was taken until 1000 hours, 2 October 1947)

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Kramoh, et al, defendants, sitting at Nurnberg, Germany, on 2 October 1947, 1000-1630, Justice Shoke, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI. Military Tribunal No. VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please Your Honors, all the defendants are present save the defendant Wurster, absent because of illness.

THE PRESIDENT: Is Counsel for the defendant Wurster in the courtroom, please? Counsel, can you give the Tribunal any information relative to the condition of your client Wurster and the probability of his being able to attend the sessions of the Tribunal?

DR. HEINZELER (Defense Counsel for defendant Wurster): I can give you a short information. As far as I am informed, Dr. Wurster's condition has not changed. As far as I know, the physician who is treating him believes that Dr. Wurster's ability to participate in the trial will not be given in the near future. As a layman, I can say that he has an organic heart condition and has a lot of abnormal blood pressure which make him particularly susceptible to incur all kinds of excitement. I do not know whether Dr. Wurster's sickness can at all be cured completely. That's what I know at the present time, as a layman, about the condition of Dr. Wurster.

THE PRESIDENT: Thank you very much, Counsel. The Tribunal feels that if the defendant's condition is such that he could attend the sessions without injury to his health, he should do so. However, we are not disposed to impose any conditions upon him that would be injurious or calculated to aggravate his situation. We simply wish to be advised as to the condition, and we thank you very much.

Is the defense ready to proceed with the cross examination of the witness on the stand?

CROSS EXAMINATION - Continued

DR. WERNER HAGERT - Resumed

BY DR. HENSE (Defense Counsel for the defendant Oster):

Q Dr. Hagert, since we were not able to finish yesterday, may I start out from where we left off yesterday? In order not to lose the connection, I should like to reiterate what we said yesterday. We were speaking about the situation of Chile salpêtre. I gave you the development of the sale of Chile salpêtre (nitre) in Germany between the two wars. The figures were not familiar to you. I furthermore spoke of the fact that a decrease had occurred in the sale in some other important countries as compared to the sale of Chile salpêtre. You did not know these figures but you considered them possible. May I continue now?

Dr. Hagert, do you know the development of the sale of German nitrogen in those countries about which we spoke yesterday? They are the countries England, Belgium, France, Holland, Italy, Czechoslovakia, and Poland. My question was, do you know how sales developed as regards German nitrogen in those countries?

A I am informed about these matters, but of course I do not keep these figures in my head. In my affidavit which I submitted I dealt with the whole matter.

Q Then may I ask you the following, witness. Do you know that no German imports took place to England in those years?

A I cannot answer that question at the moment. I don't remember whether that was so or not.

Q Yesterday I said - that is, I submitted to you that the sale of Chile salpêtre in Poland in 1930 was lowered to a very small amount and Poland did not import any Chile salpêtre at all. Do you know that from that time on Germany could no longer import anything from Poland?

A In my affidavit I made no testimony about these special conditions prevailing in Poland. I can only talk about what I stated in my affidavit. I can only repeat.....

Q (Interrupting) Excuse me, witness, if I interrupt you. You said that Germany had displaced Chile from the world market?

A Yes.

Q I am treating a part of these world markets. That's the reason why I believe there is a connection between what you said in your affidavit and what I am saying. May I ask you, witness, to express yourself about these statements I have made. Do you agree with me, for instance, that in the case of Poland one cannot speak of a displacement on Germany's part against Chile because Germany did not import anything either?

MR. MOHR: If Your Honors please, the testimony as far as the affidavit is concerned relates to world-wide production and I think it would be going far afield if he interrogated upon each one of the 54 countries in detail. I have no objection to general questions along the line, of course, but to interrogate the witness on each one of the 54, when there is individual testimony in the affidavit, I do submit that as going a little far afield.

THE PRESIDENT: The Tribunal feels that the cross examination of this witness is taking an undue amount of time. We point out to you that it has already been disclosed that there are perhaps some more affidavits made by forty or fifty different persons, and if this is to illustrate the length of time it will take to cross examine these witnesses, it is very apparent that we are all going to suffer by a very serious slow down of this case. The Tribunal is reluctant to impose too many restrictions. We will permit the witness to answer the question that is presently before him but, of course, if there is any effort to go into a great number of countries and the circumstances with reference to saltpetre production we would, in the interests of time, be required to impose some limitations. In the hope that this inquiry will not go too far afield, we will overrule the present objection.

DR. REMME: Mr. President, it was not my intention to deal with each country particularly. I merely wanted to single out a few, but I should like to answer the statement of the prosecutor.

THE PRESIDENT: The Tribunal has ruled. There is nothing before the Tribunal now except the unanswered question propounded to the witness. In the interest of time we shall ask counsel, since the ruling has been in his favor, to proceed with his cross examination.
BY DR. REMME:

Q Witness, can you answer the last question?

A Would you please repeat it.

Q I asked you, if my submission to you is correct, are you then of the opinion that in the case of Poland, which I singled out as an example, that one can speak of Germany displacing Poland from the market?

A It is quite possible that it has taken place there. After all, Poland doesn't represent the whole world.

Q Also I agree with you that it doesn't represent the world.

Witness, do you know that the loss of these sales territories was caused by the erection of indigenous nitrogen factories in Chile?

A I didn't quite understand your question.

Q Do you know, witness, that the loss of these sales territories, as far as Chile was concerned, was caused by the erection of indigenous factories in Poland?

A In Poland, yes.

Q Do you know that, during the first years after the World War, many other countries also made themselves independent in this field?

A Yes. We are mostly concerned with changes of the Haber-Bosch process.

Q Witness, I believe that you are making a mistake. Perhaps we shall revert back to that later.

Can you tell me in what cases they were working according to the Haber-Bosch process abroad?

A We have the well-known contract before us between the French Government and "E.B.E.S.".....

Q (Interrupting): Witness, you are speaking of the plant in Toulouse. Do you know that that is an outgrowth of the Versailles Treaty. By reason of a certain regulation in this treaty, the E.B.E.S. had to surrender these patents.

THE PRESIDENT: Is Counsel for the Prosecution objecting to that question?

MR. AMCHAN: I am.

THE PRESIDENT: The objection is sustained as being without the scope of cross examination.

BY DR. HENZE:

Q Witness, do you know that the share of Chile saltpetre in the nitrogen consumption of the United States of North America in 1924 decreased from 59% to 15%?

A I know also that synthetic installations were erected in the United States.

Q Do you know, and I assume that you are referring to this, that the Chile sodium factory in Hochwualde was able to produce 200,000 tons pure nitrogen? That was the exact quantity which Chile exported to the United States during the peak.....

MR. AMCHAN (Interrupting): I object to that question, if Your Honors please. We're getting down to too much detail and it's far afield.

THE PRESIDENT: The Tribunal feels warranted in saying that it is not impressed with the thought that this cross examination is producing any facts of any particular significance so far as the trial of this case is concerned. The objection is sustained.

BY DR. HENZE:

Q May I put a few other questions, witness.

Do you know in what year Germany exported synthetic nitrogen?

Do you think that 1925 could be the year?

A Just let me look that up, please.

Q Witness, I believe that you merely had to say that the year 1925 is correct or not.

A Would you please repeat the question now?

Q Do you know, witness, during what year Germany began to export synthetic nitrogen?

A Yes, I know that.

Q What year is that?

A I quote:

"Only since the end of the compulsory economy of the year of 1924 we started to export nitrogen."

Q Witness, do you know that when Germany took part in the world nitrogen market, other countries were already exporting nitrogen?

THE PRESIDENT: That matter has been gone into and I dare say that every member of the Tribunal knows in a general way what the facts are with reference to the production of synthetic nitrogen and the development of that industry. The Tribunal, on its own responsibility, will sustain an objection to that line of interrogation.

BY DR. HENZE:

Q Q Then, witness, I'd like to make it very brief and ask you in conclusion, whether you are furthermore and still of the opinion which you have expressed in your affidavit that Farben had a predominating position in the world market in this field?

THE PRESIDENT: Now, Mr. Witness, that is a simple and direct question to which there are only possible three good answers - "yes", "no", or you don't know, and will you please try to answer it in that respect.

THE WITNESS: Yes.

THE PRESIDENT: Ask another question, please.

BY DR. HENZE:

Q Witness, then I may put something to you and I may ask you whether, after that, you will still hold the same opinion? In an affidavit of the prosecution and, Your Honors, that's Affidavit NI 7745, a statement of Dr. Walter Jacobi from New York, who was later active in the Nitrogen Syndicate - it's Exhibit #592, English Book 34, page 108.

Witness.....

MR. AMCHAN (Interrupting): One moment, please. I suggest he show him the affidavit if he is going to interrogate on an opinion of some other expert.

THE PRESIDENT: In fairness to the witness, he should have access to the affidavit if he is to be interrogated about it. Will counsel see that the witness has the affidavit unless he already has it.

MR. AMCHAN: No, he hasn't.

THE PRESIDENT: Do you have the affidavit referred to, Mr. Witness?

THE WITNESS: No, I don't have it before me.

DR. HENZE: Mr. President, I ask your indulgence. If I put the entire affidavit to the witness I believe it will take quite a while before he can read it through. I merely wanted to quote one sentence.

THE PRESIDENT: Very well. If it is a reasonably short sentence quote it to the witness.

DR. HENZE:

Q "The Badische and later I. G. Farben refused, as a matter of principle, repeated requests for patents, licenses and technical assistance. This required intensified research in other countries and finally

a French chemist, Claude, and an Italian chemical engineer, Casale, had discovered a competing process which was patented and licensed. This broke the I. G. Farben hold and further increased the world production capacity."

Witness, do you still hold the same opinion that you expressed before after what I have just read to you now?

THE PRESIDENT: That can be directly answered, Mr. Witness. Yes, no, or you don't know.

THE WITNESS: I can give you none of these three answers since this form of questioning was not in connection with my affidavit. I know it, but I have to have a possibility to define my attitude towards these questions.

DR. MENZE: Mr. President, I believe, especially in compliance with your wish to shorten the proceedings, I think I will forego this question and leave the stand.

THE PRESIDENT: Thank you very much.

BY DR. VON METZLER (Defense Counsel for defendant Heafliker):

Q Dr. Hagert, I have only one question to put to you. During your examination in chief you spoke of a few plants which were controlled by Farben and which were working on light metals. Among other plants you mentioned the firm of Pyrofor. Will you please tell the Tribunal what makes you bring Pyrofor forth in connection with light metal?

A As I already mentioned yesterday, I have endeavored to study the 200 plants of the I. G. Farben industry and their affiliated companies and bring them into some order according to their production. Intentionally in doing that I have avoided forming unclear groups within these plants.

Q (Interrupting) Witness, please excuse me if I interrupt you.

I have put a very simple question to you that you can answer very briefly. Do you want to assert that Pyrofor had anything to do at all with light metals and what makes you make such an assertion? You don't have to make long answers.

MR. AMCHAN: Your Honor, please, the basis of my objection to this question is that yesterday the attorney for Buargin interrogated at length on the subject of light metal and metals, and I think we will be delayed extensively if each of the defense counsel comes back to examine on this subject matter.

THE PRESIDENT: Counsel for defense said he had but one question. It is a simple question. The Tribunal will overrule the objection and ask the witness to answer the question directly, if possible.

A It is possible that Pyrofor was not running to light metals but to simple metals?

Q Witness, do you know what Pyrofor was actually dealing with, do you know that, yes or no?

A I don't know it.

Q Then I want to put to you in conclusion that Pyrofor made flints for cigarette lighters, and they were making sand paper, abrasive paper?

A Yes, in that case it would belong to metals.

Q It has nothing to do with light metals?

A That is possible.

DR. von METZLER: Thank you.

BY DR. HEINZELER: (counsel for Dr. Wurster)

Q Witness, I merely want to put a brief submission to you in reference to document NI 10926, which is Prosecution Exhibit 65, — excuse me, Exhibit 690, English Document Book 32 on page 65, in the German on page 66. Witness, do you have that?

A Yes.

Q In this statement you made a graphic chart with two curves on page 66 of the English, page 68 of the German; do you have that graphic representation?

A Yes.

Q The top curve refers to investments in 18 strategic materials during 1932 to 1934. I have the following question to put to you, can one

say, and is it correct to say that numerous products are included in these 18 strategic materials which are not only strategic, but which also have a large peace-time significance, for instance sulphuric acid; is it true when you drew your curve there was not distinction made between the investments in these products for war purposes, that is armament purposes and normal peacetime purposes?

MR. AMCHAN: If your Honor, please, the curve here discussed is based on another document in evidence. It is not according to the affidavit and is an independent Struss-chart the witness made, and he is interrogating as to another chart.

THE PRESIDENT: It would be better to let the witness make the explanation. The objection is overruled.

A My curve has been compiled according to the figures which are included in the affidavits of Deichfischer and Struss. I did not change anything, and the facts have been imparted to me by those others by their affidavits.

THE PRESIDENT: Mr. Witness, that is a complete answer to the question.

Ask another question.

Q That is, you say you did not exclude that part from that curve which was intended for normal peacetime purposes?

MR. AMCHAN: I believe that that question can be answered "yes" or "no."

THE PRESIDENT: He has said that he used the information furnished by someone else as the basis of the chart referred to. It seems quite clear that he assumed no personal responsibility for it.

The objection will be sustained.

DR. ASCHENAUER: (Aschenauer, counsel for Gattineau)

Mr. President, may I be permitted to ask a few questions about the political party of the witness to test his credibility?

Q Witness, if I remember correctly you said in 1930 you joined the National Socialist Party and that you were attracted by Gregor Strasser's personality?

A Yes.

Q Were you very active in Gregor Strasser's group?

A Yes.

THE PRESIDENT: Proceed counsel.

Q In 1934 when Gregor Strasser was eliminated and murdered, were you affected at all by that?

A Extraordinarily.

Q Witness, what motivated you to accept the Department "Foreign Countries" in the Reich students' organization, an organization which was essentially one of the SS.

A Am I permitted to define my attitude at length in this courtroom?

Q Please give us only the essentials?

A Very well. I have expressed yesterday that I dedicated my doctor's thesis to Dr. Gregor Strasser. The dedication was "Gregor Strasser, the Fighter for Germany." At that time I didn't know Gregor Strasser personally. In the end of 1933, I made his acquaintance in his flat personally. I am one of the very few Germans who very shortly before his murder were at his flat. He was personnel chief at Schering-Kahlbaum. At the time Gregor Strasser knew that he was going to be murdered. I have a conversation with him for an hour and a half. I can only say Strasser asked me not to visit him any more. He knew his life was in danger. He said he didn't know how long his enemies would let him continue living. He spoke of the lack of humility and reverence in Hitler and his circle. He saw the war approaching and saw the end. He asked me to keep never quiet and not to forget his motives of serving in a movement which had a different character then.

Q Witness, that doesn't answer my question. The next question is this: nevertheless you were active in the Reich student organization and established contacts with the SS circles, with Codriam and the Iron Guard. Is that correct?

A Just amirute. The student organization at that time had nothing whatsoever to do with the SS. They were fighting for their own free development. This fight was lost because of the election the Reich Students leader Scheel, which at that time meant the end of our students' organization. At that time I left, the organization.....

THE PRESIDENT: Mr. Witness, the first sentence of your answer was complete, and please do not feel called upon to talk at length. If counsel wishes further information from you you will be asked additional questions.

THE WITNESS: Yes, sir.

Q Witness, but nevertheless, after 1937 you turned to the circles of the SS and SD?

A That is not correct.

Q What was your relationship with Dr. Ungewitter?

A My relationship to Dr. Ungewitter was very good, I mentioned yesterday, as he asked me to join his office.

Q Witness, I am pointing out to you that you may be contradicted by a witness who is already here? I continue.

A Very well.

Q Q Witness, is it true that you were active in Buhler's department in Amt VI?

A Yes, I had been detailed there as a soldier.

Q Witness, is it true you were working in a department which had something to do with political questions and Jewish questions?

A The latter is incorrect.

Q Witness, is it correct that you give your political judgments?

A That is also incorrect.

Q Is it correct that in one such opinion you were saying that Farben was guilty of sabotage? Yes or no.

A That I do not recall.

Q Witness, is it to me that.....

THE PRESIDENT: Just a moment. You are going a little to rapidly. It is going to be necessary to slow down the proceedings a bit on account of translation problems. Counsel, will you repeat your questions slowly and Mr. Witness try to answer slowly and deliberately.

Q Witness, is it not correct you were accusing Farben of sabotage in one of your opinions because they did not go underground in time in connection with the production of synthetic gasoline?

A I don't quite understand your last question.

THE PRESIDENT: Just a minute; slowly and carefully repeat the question again. We have no facilities to repeat the questions asked. Witness, wait until the question is repeated, take your time and answer briefly and we will be able to move along. Proceed.

Q Witness, isn't it true that in one of your expert opinions you accused Farben of sabotage because in connection with the production of synthetic gasoline they did not go underground in time?

A Underground?

Q That is what you say in your expert opinion.

A I don't understand the significance of this word "under the earth," ("under ground.") at all.

Q That is what.....

A I never made such an opinion.

Q Witness, is it true ----

THE PRESIDENT: The witness said he never made such an opinion.

Ask another question.

Q I have now one other last question; Witness, isn't it true that in a political expert opinion you stated that Dr. Krauch's position would be taken by someone else since that person was in contradiction to the necessary military measures?

A I never dealt with the personality of Dr. Krauch, and his being in contradiction of any war measures.

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Ask another question.

Q I have now one other last question; Witness, isn't it true that in a political expert opinion you stated that Dr. Krauch's position would be taken by someone else since that person was in contradiction to the necessary military measures?

A I never dealt with the personality of Dr. Krauch, and his being in contradiction of any war measures.

Q Do you want to deny, witness, you made any such expert opinion?

A I don't remember it or that I ever dealt with Dr. Krauch's personality.

Q Perhaps you remember these expert opinions referred to here, Speer's and Himmler's through Heydrich and Böhler?

A I don't remember that.

Q Witness, perhaps you also don't remember that only in 1945 you left the party chancellery when you were supposed to go to the front?

A I was never in the party chancellery. This form of questioning does not correspond to reality at all.

DR. ASCHENAUER: Mr. President, I would like to confront this witness with the witness Heydrich.

THE PRESIDENT: You will have the opportunity at the proper time. This is merely cross-examination of this witness. Any further questions?

DR. ASCHENAUER: Thank you. I have finished.

THE PRESIDENT: Is there any further cross-examination of the witness by the defense?

The Tribunal hears no request for further questioning of this witness.

Has the Prosecution any rebuttal?

MR. AMCHAN: No.

THE PRESIDENT: The Marshal may escort the witness from the box.

(Witness excused.)

THE PRESIDENT: Is the Prosecution ready to continue?

MR. AMCHAN: Yes, we are. While awaiting the arrival of the witness, If Your Honor, please, I have on spare exhibit I would like to put in. I think you have Document Book 32 before you.

In Document Book 32, if Your Honor, please, as NI 2861, which is Prosecution Exhibit 680, there is a report, a TEA report, about the credits for the 4-year plan, and that document indicates reports by a

better plant, Leverkusen, and another plant. What we are offering now is NI 11267, which will be Prosecution Exhibit 770. That is an affidavit by Dr. Struss to the effect that this procedure of submitting reports to the TEA was general of all reports to I. G. Farben, I suggest Your Honor consider this along with Exhibit 680.

THE PRESIDENT: May I ask, is this a substitute exhibit or supplemental?

MR. AMCHAN: Supplemental. It is a new exhibit.

THE PRESIDENT: It follows exhibit ---

MR. AMCHAN: It should be considered for your own purposes in connection with Exhibit 680. It is being marked as 770. It is just by way of subject matter relationship that I direct your attention to 680.

Copies have been served within the time on the defense.

MR. SPRECHER: The Prosecution calls to the witness stand Paul Otto Schmidt.

THE PRESIDENT: Will the witness stand, hold up his right hand, and say "I" and give his name?

(Witness repeats)

And now repeat after me, I Swear by God the Almighty and Omniscient that I will speak the truth, the pure truth and will withhold and add nothing.

(Witness repeated the oath)

The witness may be seated.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Will you state your full name to the Tribunal, please?

A Paul Otto Schmidt.

Q You have been a witness in the first case before the International Military Tribunal?

A Yes.

Q And you gave affidavits which were introduced there during the Prosecution's case in Chief, and you later were called as a witness on behalf of the defendant Ribbentrop?

A Yes.

Q You were the personal interpreter for Hitler in a large number of conferences, is that correct, Doctor?

A Yes.

Q And you speak a number of languages very fluently, is that true?

A Yes, a few languages.

Q And among them the English language is well known to you, is that correct?

A Yes.

MR. SPEECHER: Your Honor, might I make the suggestion that while the questions are in the English language the answers be in the English language, and that when the cross-examination takes place the German language is used, unless there is some special objection. I think there will be no question about misunderstanding.

THE PRESIDENT: That is agreeable to the Tribunal, if there is no objection.

MR. SPEECHER: Doctor Schmidt, will you remove the earphones then.

Q What is your present address?

A Tegernsee, Landhaus von Bury.

Q Prior to 1945, before the German collapse, where was your legal residence?

A My legal residence then was Berlin.

Q And what is your professional occupation at the present time?

A At the present time, I have no occupation at all.

Q Is it true you are translating a book from the German into English at the present time?

A Yes, I do.

MR. SPRECHER: Your Honors, the matter in question is an affidavit by the witness, which was in Book I, which was marked for identification as Exhibit 10. It is in the English, page 48 and in the German page 62. I had the Secretary bring your books in, and you will find them before you -- page 48.

Your Honors, I talked this affidavit over with the witness last evening, and in my opinion there is no necessity for the Prosecution to go into any detail with respect to this affidavit. The witness gave a very similar affidavit, similar generally in its nature. That was PS Document 3306, which is in evidence in this case as Exhibit 9.

Q Mr. Witness, may I just ask you this, since the time you executed this affidavit on the 3d of July 1947, have you been able to give considerable thought to the contents of that affidavit?

A Yes, I have re-read it several times.

Q Did you go over it thoroughly last evening?

A Yes, I did.

Q Do you think there is anything you would like to add or detract in order to make this affidavit to correspond more closely to your view of the truth?

A No, there isn't.

MR. SPRECHER: Cross-examination?

THE PRESIDENT: Is this affidavit in evidence?

MR. SPRECHER: Your Honor, I am afraid I committed an error. I would like to offer the affidavit as Exhibit 10. Your Honors, for identification and on the basis of the qualifications just made, I would like to offer it as Exhibit 10.

THE PRESIDENT: If there is no objection the affidavit just referred to will be admitted in evidence as Prosecution Exhibit 10.

DR. HOFFMAN: Mr. President, Hoffman for the defendant von der Heyde. Mr. President, according to what we were told first the witness von Heyde, and several other witnesses were to be called, and that is

in accordance with the list the Tribunal and the Court has. We have
no objection as such, but please could there not be a recess so that
we could consult about this new witness.

THE PRESIDENT: Then the record may show Exhibit No. 10 as
evidence.

The Tribunal will rise for its morning recess, and perhaps
during the recess you can determine what the policy may be.

(Thereupon a recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. DIX: (For the Defendant Schneider) If Your Honors please, Dr. Schmidt, the witness, has just appeared as a witness in a case about which we agreed during the session of 2nd September with the Prosecution, and the Tribunal also agreed that this is a typical case where a witness is to be heard in their examination quite apart from any affidavit. Contradictory to the settlement made at the time, and at our surprise, this man's affidavit has been submitted, a fact which I regret that personally, because I was greatly interested in seeing how the first direct examination would actually take place, since so far we have had none. Let me state that a direct examination of the witness Schmidt had been expected for an hour or two. In spite of that fact in an agreement with Mr. Achenbach, who will carry out the cross examination, we are agreed that we continue, and, therefore, Mr. Achenbach will start the examination. He, however, do not wish that to be a precedent, and a denial of our principle which we have established sometime ago.

THE PRESIDENT: On the affidavit offered in evidence, the Tribunal asked if there was any objection to the introduction of this affidavit in evidence. We waited appreciably in order to hear if there was any objection and none was made. The affidavit is in evidence, and under the circumstances there is no matter before the Tribunal at present except the question as to whether or not the defense desires to cross examine the witness in the box. The cross examination may proceed.

CROSS EXAMINATION

DR. ACHENBACH: (For the Defendant Dr. Gajewski.)

Q Mr. Schmidt, let me at first put the question to you whether you personally know any one of the defendants?

A Yes, I know a number of the defendants personally.

Q Could you answer the question of whether any of the defendants present here had known that Hitler was planning aggressive wars against his neighbors from your own knowledge?

A No, I could not do that.

Q As to the question whether any of the defendants present here was subjectively of the opinion that the invasion of Poland on 1 September 1939, had been an unprovoked act of aggression, you could not state your opinion on your own knowledge, could you or could you not?

A No, I could not do that, because I did not discuss this matter with any one of the defendants, and, I, therefore, could not make any statement as to their opinion.

Q Dr. Schmidt, from 1923 until 1945, you had been an interpreter in the Foreign Office, and ever since 1935 you practically participated in every conference of Hitler, Goering and Ribbentrop with foreign statesmen. If I remember correctly, you used to discuss these gentlemen when talking to colleagues in the Foreign Office as your personal customers No. 1, No. 2, and No. 3, is that true?

A Yes, that is correct.

Q Would it be correct to say that thanks to these circumstances, you were one of the best informed persons in Germany?

A I would not put it as general as that. Let me say that it was so in the field of foreign political negotiations in direct conversations with foreign statesmen. In those cases I was naturally the one who knew most about what was being discussed and what was to happen.

Q If any one at all could form an opinion about what Hitler's foreign political intentions were, then it certainly was you, was it not? Is that the correct interpretation of your answer?

A No, I would not answer like that, because I only had the picture before me as it developed during negotiations with foreigners. For instance, I did not know what was happening within the inner circle of the advisers of Hitler where all the plans were made - and I could reconstruct it now after all publications, - were discussed in the most specific and precise manner. I only saw the picture as it could be

seen from the foreign point of view.

Q These plans which, as you just said, were discussed within the inner circle of the Nazi Leadership, were not known by you, were they?

A No, I did not know them directly. I could only deduce as to these plans indirectly on the strength of the conferences, on the strength of what was told to Mussolini or Antonescu, and a number of other statesmen, from which I would make this kind of deduction as to what the plans were bound to be.

Q Dr. Schmidt, are you aware of the psychological problem, which concerns the following of people on the strength of their professional positions, having to deal daily and hourly with certain problems, are inclined to view these things as being a matter of course when talking to other people who did not have these possibilities of information?

A I know that problem entirely.

Q Do you still recall the so-called basic Fuehrer Order No. 1 which was posted in countless state offices, and according to which every official was only to be informed of what he actually had to know in order to execute the orders with which he was entrusted?

A Yes, I know that order.

Q Compared to the ordinary officials, you were at all times in a preferential position, weren't you?

A Yes, that is quite true.

Q Now let me put the question of conscience to you, Mr. Schmidt. Since when did you know concretely that Hitler was planning to wage an aggressive war against Poland? I emphasize "aggressive war."

A Concretely, I knew it perhaps three or four weeks before that time. Of course, there was not a hundred percent mathematical certainty, because such a certainty of anticipation does not exist in foreign political spheres.

Q The fact of German rearmament in itself even according to

your own opinion did not justify you to make a conclusion that aggressive war was being planned, did it?

A It did not justify the conclusion that of an aggressive war was planned as to certain countries. It did not justify precise plans which may have been made, but in my opinion it was at any rate an indication that under circumstances certain methods of force were being considered.

Q In that connection let me quote to you from a book of the last British Ambassador to Berlin, Sir Neville Henderson —

MR. SPRECHER: Your Honors, this is the beginning in my opinion of a very serious question, and, therefore, I take the liberty of bringing it to your attention now...

THE PRESIDENT: Pardon me, Mr. Prosecutor, would you permit the counsel for defense to complete his question, and thereby giving us the benefit of the quotation, and then we will be in a position to understand...

MR. SPRECHER: I am sorry, but judging from the responses I did not know whether or not he was finished.

THE PRESIDENT: And the witnesses will please not answer until the Court has ruled whether the question is proper.

BY DR. ACHENBACH:

1 That Sir Neville Henderson wrote here on page 57 of the book: "Germany, as I noted in one of my earlier dispatches, was being motorized from cradle to the grave, the writing was thus on the wall for all to read. The only real question was whether it was intended to use this German might as battering for attainment of not legitimate aims, or for the prosecution of illegitimate ambition." Is that correct, that this question at that time was concerning the political thinking persons?

THE PRESIDENT: Now, we will hear the Prosecution's objection.

MR. SPRECHER: An attempt was made on numerous occasions during the first trial to bring in views of certain Allied officials and representatives, who had had some, little and on some occasions a great deal of knowledge about Germany, and to have statements woven into the first trial in one way or another as to whether some of those officials thought that there might be some legitimate or illegitimate objective in the Nazi Program. I think if we have to go into such things in this trial, it would be a collateral attack upon the judgment of the IMT. I think it should be on the basis of the ruling which the IMT made in the case itself, and, I think that our further pursuit would carry us very far afield. Here we have a compounded reason for not doing that, in my view. Not only are we getting a quotation from Sir Neville Henderson directly, but the witness is about to be asked his opinion concerning what was in Sir Neville Henderson's

mind; and, I might say for the purpose of identification, if you don't mind, that the book is entitled, Sir Neville Henderson's, "Final Exposure of Hitler; Failure of a Mission."

THE PRESIDENT: The Tribunal will be glad to have the view of the defense as to the propriety of this inquiry.

DR. ACHENBACH: May it please Your Honors, I am certainly not making an attack upon the findings of the International Military Tribunal. I think it is wise to turn back to history. What we are concerned with here is the state of mind the defendants were in, as to knowing the question, if they knew that their government in a criminal way tried to wage aggressive wars upon its neighbors. I am not discussing the question if there was, or if there was not an aggressive war. I am discussing the question if the defendants knew that their government was embarked in that kind of a course. If Your Honors will kindly permit me, I submit to the Court the opinion that that is a crucial problem found in Count I of the Indictment, and I think that I'll have to go into this matter very carefully.

I should like to assure your Honors that I am quite conscious of my duty as an officer of this court not to drag in problems that do not belong to this court. But it seems to me that we are just now arriving at the real, crucial problem. The Prosecution so far, in my mind, just proved that I.G. Farben was a big firm, that it was an efficient firm and that in some way or other it took part in German rearmament. But so far -- and that seems to me to be the crucial problem -- there has not been much discussion about the question if the defendants did know that their government was composed of criminal fools and that they tried to make war, aggressive war, upon their neighbors.

It is, I think, the affidavit of the witness who is now on the witness stand which, for the first time, really approaches this problem and in order to explain to the Court the psychological situation between 1933 and 1939 I had to remind the witness of certain facts which are very important. I had to do so since the witness does make, in his affidavit, some rather sweeping statements about which conclusions one necessarily had to draw from the situation. I do think that since the affidavit was made in 1947 the witness did forget the psychological situation at that time. I am not making any charge upon his good faith. I think that he did forget the psychological conditions of that time in order to bring them back to his memory and to put him in a position possibly to correct his statements, I think I have to refer to certain facts at that time.

THE PRESIDENT: This was the Prosecution's objection and the Prosecution may close the argument on the question before the Tribunal.

MR. SPEAKER: Material of the type we have before us in this book we think is clearly admissible. Whether or not Sir Neville Henderson thought at that time that Germany's right - to use the exact case in question - might be used for legitimate aims of aggression or illegitimate aims of aggression is utterly beside the point here. I

do not see that in order to get to his questions Dr. Achenbach needs to bring this book in through the side window.

THE PRESIDENT: Now, this is a matter of such importance that your President is not going to assume personal responsibility of passing upon the admissibility of this evidence without consultation with his colleagues. But before we do that may the Chair inquire of counsel if he is correct -- by that I mean am I correct -- in assuming that the general purport of the affidavit, which is now the subject of cross examination, is to bring general, or what might be called common knowledge in Germany to these defendants on trial in order that it may be concluded that they knew what was supposed to be a matter of general knowledge in Germany.

Is that a fair statement of the general import of this affidavit?

MR. SPEYER: Indeed, Mr. President.

THE PRESIDENT: Very well. Please bear with the Tribunal a moment.

THE PRESIDENT: It is the view of the Tribunal that the defense is entitled to a broad scope of cross examination of this witness with respect to the statements contained in the affidavit as to what were matters of general or common knowledge in Germany at the time referred to in the affidavit.

The Prosecution has put that matter in issue. It is conceded that its purpose is to bind these defendants by showing that they also were charged with knowledge of matters that were generally known in Germany. That perhaps is sufficient for us to say with respect to the scope of this cross examination. In other words, we do feel that these defendants are entitled to a wide field of cross examination of this witness with reference to whether these matters referred to in the affidavit were or were not subjects of general knowledge and the basis for his conclusions that they were.

However, the Tribunal feels that to select isolated statements of some particular writer or a number of statements of many writers and to conduct an inquiry with respect to those matters would be injecting into this case collateral issues that might be calculated to cloud the questions ultimately to be determined.

In the form in which the question was propounded, and in so far as it relates to a particular quotation from a book referred to in the question, the objection is sustained by the Tribunal. But we do wish to make it clear that there is no purpose on the part of the Tribunal to unduly restrict counsel for the defense in their cross examination of this witness, especially with respect to what were or were not matters of general knowledge in Germany and the basis for his conclusions with regard to those matters.

The objection to the question in its present form is sustained with those observations.

BY DR. ACHENBACH:

Q. Let me now continue the question which I put to you before

and put it to you again more precisely. Could it be deduced from German rearmament itself by the normal German citizen that the German government intended to wage aggressive wars against their European neighbors?

A. No. In this form this conclusion could not be drawn. One could deduce, however, that use of force had to be expected, especially if you take into consideration what was happening in other spheres within Germany.

Q. May I interrupt you? We shall come back to that later.

MR. SPRECHER: Your Honors, I think that the proper procedure, where the counsel believes the witness is not being responsive to his question, is to ask Your Honors' permission to have the matter stopped; but if the witness is carrying on and an intelligent man is making what he considers to be an intelligent response to the question, I don't think we should have these interruptions by counsel, and I emphatically object.

DR. ACHENBACH: I shall gladly conform to this proposal.

THE PRESIDENT: You gentlemen seem to be in agreement on something which I suspect would not meet with the hearty approval of the Tribunal.

We think it is proper, where a witness has answered a question and then proceeds beyond the scope of a legitimate answer, for counsel to remind him that he has gone far enough and to await another question; and we certainly shall not criticize counsel for the defense, when a witness is asked a simple question and makes a complete answer and then undertakes to volunteer information that is not responsive to the question, to call the witness' attention to the fact that he has sufficiently answered the question.

You may proceed.

DR. ACHENBACH: Thank you, Your Honor.

BY DR. ACHENBACH:

Q. Dr. Schmidt, you said that from the fact of rearmament one

could have arrived at the conclusion that under circumstances force war to be used. May I ask you, could there not have been the aim, as a result of rearmament itself, to discourage the use of force emanating from another source.

MR. SPRECHER: Just a second. Mr. President, I am wondering if the witness is to be put in the position of judging whether or not the question of rearmament couldn't have had some relation to rejecting force from the outside. I think that that is getting into a collateral point again.

THE PRESIDENT: If that is an objection, it is overruled. The witness may answer the question.

A. No doubt that conclusion could have been made.

BY DE. ACHENBACH:

Q. Thank you very much. In what connection, in view of the fact that this is an important matter for the German psychological situation, let me point out a number of historical facts.

Is it true, Dr. Schmidt, that the Weimar Republic carried on its foreign policy under the postulate of equality and equal rights?

A. That is true.

Q Is it furthermore correct that after World War No. 1 the victorious powers proclaimed the right of self-determination for the peoples and that according to this right of self-determination for nations the Danube Monarchy disintegrated, but that this right of self-determination was denied to the German parts of this Danube monarchy. Let me be a little more specific. Is it true and do you remember that after the world war the Austrian National Assembly in a democratic vote proclaimed the Anschluss to Germany. Do you remember that?

A Yes, I remember that.

Q Is it correct that this desire of the Austrian population was and could not be realized because the Treaty of Versailles prohibited such a course?

MR. SPEECHER: Your Honor, I think I would like to observe in the question as to what the Austrian people desired in connection with this matter is a matter that was not considered relevant in Case I, and I don't get the connection of the matter and whereas I did not object to the last question in its multiplicity that a mere "yes" or "no" answer by witness Schmidt is to a speech rather than to an individual question and it makes it difficult for the Prosecution to know what we have in evidence and to what to object.

THE PRESIDENT: The question is probably not in the best form to call for a direct responsive answer. In view of the ruling that the Tribunal made a little while ago it seemed to us that it is proper for a counsel for this defense to enquire of the witness whether or not he had in mind certain facts when he reached the conclusion expressed in the affidavit that certain matters were common knowledge and therefore a part of the knowledge inferentially of these defendants, with reference to what might be called this Austrian question; we are not interested in the historical fact as to what did or did not occur in Austria but we think it might be proper for this witness to be reminded of these facts and ask whether or not he had those matters in mind when he reached

the conclusion expressed in the affidavit that certain matters were matters of common knowledge in Germany and therefore knowledge on the part of these defendants. We will sustain the objection in its present form. I mean by that, we will sustain the objection to the question in present form.

BY DR. ACHENBACH:

Q Do you remember, Dr. Schmidt, that at that time the Sudeten Germans expressed the desire to be incorporated into Germany?

A Yes, I do remember that.

Q Do you remember that years later, perhaps you remember it better than I, a Democratic German government with a Democratic Austrian government came to an agreement as to a customs union and that at that time even a man like Briand declared the execution of this customs union as a "casus belli for my country."

A I remember that the Bruening government came to an agreement with the Schober government in Austria and intended to carry out a customs union. I also remember that this plan could not be carried out because of the protest of other countries. However, I do not remember the utterance of Briand that that would be a casus belli, I don't remember that today.

Q Do you remember that the question of the admissibility of that customs union had been presented to the International Court at the Hague?

A Yes, I do.

Q And that at that time the decision was made not in favor of Germany, - there was a proportion of 5 judges Pro, and 4 judges Con; or 10 Pro or 11 Con.

A I do remember that this question was presented to the Court at the Hague and I also know that the unfavorable decision was only made with a very sparse majority. I no longer remember the figures.

Q Is it true that the demand for the Anschluss of Austria to Germany was considered by the German citizen as something morally legitimate and furthermore that he considered the resistance of certain

powers to such a course as an inadmissible and not morally justifiable interference of foreign countries into German affairs?

MR. SPRECHER: Your Honors, there are a lot of things considering what the Prosecution - if they thought were relevant - could stipulate that there were many Germans who considered the situation after the Treaty of Versailles was unjust. We will indeed so stipulate if that is Dr. Achenbach's purpose, that a lot of things happened which made many German people feel very badly. We will also stipulate to that that there was even some injustices by standards of many people. We can even stipulate to that but we don't see what that has to do with the question of whether or not the average German citizen or the informed and intelligent German citizen knew that whether for right or wrong, whether for justice or injustice Hitler was prepared to use force and that it was a part of his foreign policy.

THE PRESIDENT: The question of right or wrong, just or unjust, might be very important in determining whether an aggressive war was contemplated. As we understand the situation, the Prosecution has offered the affidavit of this witness to establish that it was generally known in Germany at the time referred to in the affidavit that the responsible government of Germany had determined upon a course of aggressive warfare; that that matter was known generally to the people of Germany and that these defendants, as German citizens, are to be charged with the same knowledge. Now, as indicated before, the Tribunal is of the opinion that in its very liberal limitations the defense is entitled to cross-examine this witness as to the soundness of his conclusion and the factual basis upon which it stands and likewise to remind him of matters which would be calculated to weaken his conclusion and to ask him whether or not he had those matters in mind when he made the affidavit as to the state of public opinion and inferential knowledge of these defendants. Counsel for the Prosecution has suggested the possibility of an agreement or stipulation to shorten this cross-examination. At this time the Tribunal will rise for its lunch hour

and if any progress can be made with respect to such an agreement we shall be happy to know of it at 1:30. Thank you.

(A recess was taken until 1330 hours)

AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

DR. SCHENCK: May it please your Honors, your Honors will recall that learned counsel for the Prosecution said at the end of this morning's session that there would be the possibility of certain stipulations to be concluded between the defendant and the Prosecution concerning certain facts of International policy and concerning the question of their legitimate or illegitimate character. Now, I feel that there really is no object for such stipulations. All I am interested in here is the subjective side of the matter, what people felt, and thought, in Germany at a given time. In order to ascertain if the witness can maintain the conclusions in his affidavit I had to remind him of certain facts and had to ask him what he remembers people thought about them. I am not passing judgment upon the question if a certain political attitude of Germany, the German government, or the governments of other powers was legitimate or not from an objective point of view.

MR. SPRINGER: The question of whether or not there was something to stipulate about we are in complete agreement about that. The only thing the Prosecution wants to say is that we feel we are on very dangerous ground when you start, for the purposes of cross-examination, to go into matters of alleged fact where some of them have been very controversial and where many of them have been passed upon before; many of them have been passed upon before; many of them have ruled out before; that was our only purpose in objecting, your Honor.

THE PRESIDENT: It may be that the Tribunal can guide the course of this cross-examination a bit by observing that this witness has, by his affidavit, shown some knowledge and familiarity with public opinion in Germany at a given time. From that he has adduced and expressed the opinion that certain matters of National policy were common knowledge in Germany. Now the Tribunal is not concerned with collateral, historical facts, but we do deem it proper that this witness be reminded of any fact that appears to be pertinent and asked whether or not he had that

fact in mind or whether he took that fact in mind when he reached a conclusion of the state of public opinion and public knowledge in Germany. Counsel may proceed.

BY DR. SCHENCK:

Q. Thank you. Now, Dr. Schmidt, is it true that at the time when the Weimar Republic was in existence there was on Germany's part an attitude of reportedly pointing out that according to the Versailles Treaty and the Charter of the League of Nations Germany's disarmament would only be the first step towards general disarmament.

A. That is perfectly appropriate to say that.

Q. Now in accordance with your recollection did other powers in particular France and Great Britain carry out such disarmament action?

A. Carried out? That would hardly be right to say that.

Q. Thank you very much. Would it be right to say that the Weimar Republic in the foreign political field and sovereignty of nations as well as a quality of re-armament did not reach that aim until 1933.

DR. SPRECHER: I dislike objecting constantly but I think we come back and back to the same thing. The witness has now been asked whether or not the Weimar Republic which is not a person but a Republic which existed in the year 1919 until Hitler knocked it out in 1933 and he is being asked the general question, if the foreign policy was not so and so. That is not only remote but it is attempting to judge a very important item. Now, I can't see how it has any relation to the status of public opinion on the question of whether Hitler intended to use force and whether people knew that he intended to use force.

THE PRESIDENT: The Tribunal is unconcerned with the policies and practices of the Weimar Republic as such. We are only concerned, so far as this cross examination is involved, with the opinion expressed by this witness as to what was a matter of common knowledge in Germany at a given time. Now, any cross-examination that throws any light

upon whether that opinion had a factual foundation or whether the opinion is sound, is proper. As I said before we are not concerned with the accuracy or legitimacy of collateral facts. This cross examination, in other words, should be confined to the fact as to whether or not the opinion expressed by this witness as to what was common knowledge in Germany at the time referred to in the affidavit was justified or not justified and in that view we must sustain the objection to this question because it would inject into this case a question of fact as to what was or was not the policy of the Weimar Republic with which we have no concern whatever.

BY DR. ACHENBACH:

Q. Might I, Mr. President, put my question in different form? Is it correct that public opinion in Germany and to a very considerable extent had the view in 1933 the Weimar Republic had not achieved the aim of foreign political equality?

A. I can answer that question in the affirmative but must limit it and add the word "fully". In other words equality had not been fully achieved. In certain spheres it had been achieved you know.

Q Is it correct that after Hitler had come into power, he announced "uri et orbi" that he as an old service man knew what war meant and that, therefore, it was his wish that there should be a peaceful understanding though on a basis of equality?

A Yes, that is correct.

Q Do you have the impression that the public in Germany believed in these assurances, at that time, I mean?

A In the beginning, yes, later, no.

Q Thank you, Dr. Schmidt. Do you recollect that it was in the sense of service men's reconciliation during Hitler's regime that the German servicemen's associations took up contact with foreign servicemen's associations; in particular with the French?

A Yes, I do remember that.

Q Do you remember that at that time at Douaumont a big meeting was being held where the principle of peace was put into the foreground by all delegations, and is it correct to say that Germany's public opinion at that time had to assume and did, in fact, assume that this attitude on the part of Germany's servicemen's associations was approved of by Germany's Government?

MR. SPEECHER: Just a moment. Perhaps I can avoid the objection if we can know what the questioner means by saying "at that time". I don't know that that has been identified in the period between 1933 and 1939 in view of the witness' answer to the prior question that it depends on what time you are talking about. I just don't know how the question could be answered myself, and I don't know exactly whether it is objectionable or not because the time is not indicated. That is the first point, and the second point is there are at least two questions again here, and I can't tell what we are going to get from the witness, and I am wondering if we could avoid that problem by a shorter question and a question directed to the exact time you are referring to.

THE PRESIDENT: The Tribunal will sustain the objection to afford Counsel for the Defense to separate his question and to fix the time.

BY DR. ACHENBACH:

Q Is it correct that the German ex-servicemen's associations during the years immediately after 1933 did liage and establish connections with foreign servicemen's associations?

A Yes, that is correct.

Q Is it correct that during that period and during this meeting at Douaumont a great peace rally was held when ex-servicemen from various nations sent delegations?

A I am afraid that my recollection is too vague for me to give you a clear-cut answer to that question.

Q That meeting did take place. I am asking you if a German delegation participated in it, did the German citizen not have to assume, and did he not in fact assume, that this was happening with the agreement of the German Government?

A Indubitably.

Q Is it correct that inspite of the occupation of the Rhineland and the proclamation of "defense sovereignty," the Olympic games in Berlin were visited by every nation, and that on that occasion the thought of peaceful international competition was fostered by leading men of the regime with the applause of leading representatives of every nation again and again?

MR. SPEECHER: This is a line of questioning which very distinctly was ruled out of order by the I. M. T. I think it is more irrelevant here, and I must object to it as being utterly incompetent. It is the attempt to point out that some foreign representatives who came to Germany came here with certain viewpoints in mind, and that certain Germans reacted in certain ways to those things. By that means we can go from here to Timbaktu in this trial and back again.

THE PRESIDENT: What has Counsel to say?

DR. ACHENBACH: It seems to me that the facts I am referring to were, since they were widely known, an important factor for the

formation of German public opinion and, consequently, also for the formation of the general impression the defendants in the dock had about the aims of their Government, and insofar I do think that the question is very relevant.

THE PRESIDENT: We are, of course, interested to know what this cross examination may develop with reference to the state of public opinion in Germany at the time, and what inference may be drawn from that as to knowledge on the part of these defendants. We are not concerned with the state of public opinion of visitors from other countries to Germany. It might be proper for this witness to be reminded of the incident and asked whether or not that throws any light on his conclusion as to what was the state of opinion in Germany at the time. In its present form, we will sustain that objection.

BY DR. ACENBACH:

Q The impression made by the Olympic games and the considerable participation by foreign countries on German public opinion, did this impression point to it that peaceful development could be believed in or was the contrary the case?

A Predominately peaceful development was believed in.

Q Is it correct that with due consideration of the fact that Germany's march into Austria assumed the character of a flower parade, ordinary citizens in Germany could possibly develop the trend of thought that in this case they were concerned with a violent aggressive war?

A Certainly the observer would not have gotten the impression of an aggressive war, but I should like to add that this flower show, after all, was initiated -- well, shall we say at least by some rhetoric thunderstorms -- so that the impression of a purely peaceful flower battle was not completely asserted.

Q Do you remember, Dr. Schmidt, that in those days public opinion was considerably impressed, first of all, through a statement on behalf of the whole body of Austrian bishops headed by Cardinal Innitzer and, in the second place, by a declaration made by the present Austrian

Federal President, Dr. Renner — both of whom heartily approved the Anschluss in connection with which the present Austrian Federal President actually emphasized that it was the restitution for a wrong committed against the German people resulting from the refusal of the right of self-determination of the peoples?

A The answer to the first part of the question with regard to Cardinal Innitzer is "yes". With regard to the second part, I can't give you any definite answer since I have no recollection of the details.

MR. SPEICHER: Could we at least have the record show what the witness was shown? There is no indication to the Tribunal and at least the Prosecution would be interested in knowing what the witness was shown.

DR. ACHENBACH: It is a photostatic copy of the South German edition of the "Voelkischer Beobachter" of Monday, 20 March 1938, in which edition, on the first page, appears a declaration made by Austria's bishops, in the sense which was just referred to in the cross examination.

THE PRESIDENT: Very well.

BY DR. ACHENBACH:

Q May I once again state: If the competent representatives of the Catholic section of the population, particularly strongly predominate in Austria, and if at the same time leading representatives of the Social Democratic Party made declarations in the sense we have spoken about, what would then, normally speaking, have had to be the impression of the citizen who was not informed about internal events behind the scenes? Could he develop the feeling that in this connection he was concerned with an aggressive war, or would it not be right to assume that a normal frame of mind would indicate that this would be an utterly impossible conclusion and impression?

MR. SPEICHER: I think that objection among other things should be made on behalf of the assumed fact which is certainly not in evidence that some representatives of the Social Democratic Party and the Catholic Party made some of these statements at the time that they were renegades,

and I don't want to go into the whole question on that whole point here, but I mean I don't think it is fair to have a number of things assumed in evidence concerning some of these people for no other reason, but my main point is, again, the question is multiplax because we cannot find just what the witness would be answering or what he is expected to answer, and I don't think the views of a number of people from Austria after the force of Hitler and the terror of Hitler was over the land of Austria, and after it was announced in this paper which was just mentioned and just shown to the witness, the "Voelkischer Beobachter", Hitler's paper, that that makes this matter any more relevant.

THE PRESIDENT: The Tribunal is not interested in the state of public opinion in Austria at this time. We repeat: What we are here concerned with is whether or not the people of Germany knew of plans for an aggressive war or, to put it another way, whether or not the people of Germany knew that the steps that had been taken with reference to the development of military power and resources were intended for purposes of aggression. That is the ultimate question toward which we are looking here, and it would be collateral and outside the scope of this inquiry to inquire into the state of public mind or what was a matter of common knowledge in another country.

This objection is sustained.

DR. ACHENBACH: May it please Your Honors, the newspaper I showed to Counsel of the Prosecution is a German newspaper. I am not referring to public opinion in Austria, but I asked the witness what he thought must have been the impression of German public opinion when they read a declaration of all the bishops, the Catholic bishops of Austria, and when they read the declaration of a former Social Democrat Chancellor of Austria, who himself in 1919 had expressed himself for the Anschluss.

THE PRESIDENT: As we understand the record, the matter about which Counsel is now speaking was inquired about and answered in a preceding question, and I don't recall that there was anything in the question to which the objection was made about public opinion as revealed by any

publication or newspaper. Perhaps in fairness to Counsel and to the Tribunal and witness, you had better restate your question and let us have a little more clear conception of just what your inquiry is.

DR. ACHENBACH: Yes, sir.

BY DR. ACHENBACH:

Q If public opinion in Germany reads in the press declarations made by all Austrian bishops, all of whom speak in favor of the Anschluss, would not public opinion in Germany have to gather the impression that a large portion of the Austrian people was in favor of the Anschluss, and that, in consequence, the union of the two countries was under no circumstances to be connected with the thought of an aggressive war?

THE PRESIDENT: That objection previously made will be sustained upon this theory: the present inquiry is not whether or not there was or was not a war of aggression. The scope of the cross examination is limited to the question of whether or not public opinion in Germany was that there was military preparedness for purposes of aggression, and the state of mind in Austria or the effect of public opinion in Austria would not have any probative value on that issue.

The objection is sustained.

BY DR. ACHENBACH:

Q Dr. Schmidt, is it correct to say that the Sudeten area was populated by a purely German population?

A Yes.

Q Would you consider it a proper starting point if it is assumed that if at the time under international control in the Sudeten area elections had taken place, that these elections would have shown an overwhelming majority for the Anschluss of that territory with the Reich?

MR. SPEAKER: Now I must make my objection rather sharp. I think this is a repetition upon a repetition upon a repetition of an attempt to get into the question of who in Europe favored Hitler's aggressive acts, and Counsel is not even talking about people within the German Reich. It seems to me it is utterly incompetent. I am sorry to object.

THE PRESIDENT: The objection is sustained.

BY DR. ACHENBACH:

Q Did German public opinion at the time when the Munich Agreement was signed consider this a considerable peaceful success on the part of the leaders of Germany's State?

A Public opinion in Germany considered the Munich Agreement to be a considerable relief and received it as such since it was considered that peace was saved by it.

Q After the Munich Agreement, did the ordinary citizen in Germany believe that Hitler after he had just in a peaceful manner achieved such considerable successes could be so foolish and so criminally stupid that he would bring all these successes into jeopardy by starting a general war?

A That question can't be answered with a mere "yes" or "no". After all, even at that time there were quite a few people in Germany who considered that Hitler was both foolish as well as criminal. Just how many of them there were, and which section of public opinion they represented, that is something you can't say. All you can say is that unity of public opinion as far as that point is concerned had hardly been achieved.

Q But do you admit, Dr. Schmidt, that at least a portion of public opinion in Germany would concur with my thoughts which I have just presented to you, that is to say, that one just couldn't imagine that these successes achieved with peaceful means should be jeopardized by a criminal war of aggression?

MR. SPEECHER: Your Honor, that is assuming not only a fact not in evidence but a fact contrary to what anyone may take judicial notice of, namely, that the results of Munich were not obtained in a peaceful way but by a threat of force, and it so stands in the I. M. T. decision, and it so stands as to what Hitler's intentions were at the time it was made.

THE PRESIDENT: We are not concerned with Hitler's intentions at

the time of the Munich Agreement. We are only concerned as to whether or not people of Germany in general thought that the preparations that had been made and were being made for armament were intended for acts of aggression.

The objection is sustained.

BY DR. ACHENRACH:

Q Herr Dr. Schmidt, you yourself have declared in an affidavit which was already submitted to the International Military Tribunal and which has also been offered in evidence here that Germany's policy had the character or rather made the impression of being an improvisation, is that correct?

A The method of carrying into practice that policy, the achievement of the aims, the type of methods used to achieve them, they made the impression of being improvisations. That, at any rate, is what I tried to express in my affidavit, without trying to define my attitude regarding the question whether the policy itself was an improvisation.

Q. Is it correct that Hitler declared after Munich - may I first of all come back to a question which I put to you earlier this morning; namely, when you had known that Poland was to be attacked.

A. I can simply repeat what I said this morning; I believe that the technical date of the approximate starting time for this attack formally came to my knowledge about a few weeks before the matter was actually carried into effect.

Q. If I put to you, Dr. Schmidt, that even in diplomatic circles, who had to occupy themselves constantly with such problems, the question was being argued right until the very last moment whether an aggressive war was really planned or not; or, whether it wasn't after all once again a prospect of another -- shall we say - second Munich. Would this be correct that in many circles right to the very last moment doubts were being stated about that - about the question whether Hitler really wanted to risk an aggressive war?

A. The question whether he was planning an aggressive war, that was something about which doubts were not stated; that he was just about ready to even use force, that in my opinion is something which during discussions among diplomats was not certainly contemplated; but, that the hope was there that possibly once again at the very last moment some agreement could be reached through understanding shown by the opponent; and that Hitler would be prevented from throwing the spark into the powder barrel. That hope certainly did exist.

Q. But, Dr. Schmidt, might I also put the fact to you that large sections of the so-called anti-Munich press frequently and repeatedly stated that one only had to say no clearly to Hitler and he would step down; is that true that considerable sections of the foreign press adopted that point of view.

MR. SPRECHER: Now, we have moved, Your Honors, from the view point of the Sudeten - the people in the Sudeten part of Czechoslovakia, the feelings of the Austrians to the feeling of the foreign press

generally. Objection.

THE PRESIDENT: We are not concerned, of course, with the views expressed by the foreign press. We repeat again that the only inquiry here is to the state of common knowledge in Germany. The objection is sustained.

BY DR. ACHENBACH:

Q. Dr. Schmidt, you are saying in your affidavit that it was one of the aims of the party to have the treaties of Versailles and St. Germain abolished. You are saying that there was absolutely no doubt whatsoever about the fact that Hitler, in order to achieve those goals, did not intend to abstain from the use of force. Now, if I am to put to you that these doubts, and to a considerable extent, were even harbored by people who were in immediate contact with him, being representatives of foreign powers, would you then still maintain your statement in the original form?

MR. SPRECHER: I object -

THE PRESIDENT: The objection is sustained.

BY DR. ACHENBACH:

Q. Did you know anybody in Germany who right to the very end were hoping that war would not come about; and, also people who believed that Hitler wouldn't be foolish enough to throw the spark into the powder barrel?

A. Yes, there were such people.

Q. Now, were these people, amongst whom I count myself, distinguished by the fact that their intelligence was far below average?

THE PRESIDENT: That is hardly a proper inquiry. If counsel will confine himself to what basis there may be in fact for the opinions expressed by this witness in his affidavit, he will be able to accomplish more in the way of this cross examination, and certainly conserve much time.

Q. Dr. Schmidt, you are saying in your affidavit that the Requisition of territories which Germany had lost as a result of the

first World War, as well as all other parts of Europe of which assert-
edly it had been said that they had been occupied by so-called racial
Germans, and of such other territories in the world as might be needed
by the Germans for Lebensraum. No doubt then this ought to say that
that was the aim of the policy, but it doesn't say so. You go on say-
ing the justification given for such a program was simply that
according to the Nazis, persons of so-called German blood were a
superior race, and, therefore, entitled to leadership. Now, I am
asking you, Dr. Schmidt, how is it that this justification is supposed
to have something to do with the Austrian problem and the Sudeten
problem, since after all we are concerned with Germans? Do you believe
that this sentence isn't going a little too far?

A. No, because it also includes the method employed in connect-
ion with all these matters, and, of course, as such it can't be applied
to territories lived in by Germans; but then, of course, the text of
the affidavit doesn't say that; and here, quite generally speaking, we
are concerned with the acquisition of Lebensraum - living space, that
is including territories outside the area lived in by German nationals;
and where the argument was put forward by the party, in addition to
the economic argument, which of course is an obvious one, in connection
with Lebensraum- living space.

Q. Dr. Schmidt, I was putting a concrete question to you-whether
in the case of Austria and in the case of the Sudetenland, the sole
justification for Germany's procedure, as you are saying, was contained
in the opinion that Germans, as a superior race, were entitled to
leadership?

A. Of course, no.

Q. Now, you in your affidavit are saying, Dr. Schmidt, in the
sentence which I have just read, that there were so-called volksdeutsche,
people of German blood. Are the Sudeten people so-called volksdeutsche?

A. The word sogenannte, so-called, I should like you to understand
to mean a description of these Germans not because they were falsely

called volksdeutsche, but because they were volksdeutsche. That is the sense in which the word sogenannt, so-called, is employed. They were called thus because they were volksdeutsche.

Q. Dr. Schmidt, can I put another sentence of your affidavit to you? The soldierly and fighting virtues and the employment of force were proclaimed as the highest German ideals by the Nazis. Can you tell me, please, where the employment or use of force is being described or proclaimed as being Germany's highest ideal?

A. In this formulation using those very words, they have never expressed it, but the entire system, the acts, the glorification of acts of force, all that was probably clearer than outspoken formulation and better proof than my observation that methods of force were going to be relied upon.

Q. But aren't you still of the opinion that this sentence, since on one side you are referring to soldierly and fighting qualities which no doubt are prevalent in every army of the world and regarded as a worthy achievement, that you are using them in no sense in connection with the conditions of the time; that there was a certain tendency in that direction?

A. No, because the soldier after all is the instrument of the employment of force. If you don't need force, then you don't need soldiers. In other words, those two conceptions supplement each other perfectly and logically.

Q: You are saying then that the soldierly virtues are necessary in the case of defensive war, are you?

A: Even in the case of the defensive war; defensive war, we are concerned with the use of force -- the strength for the purpose of defense.

Q: What do you understand by the words -- use of force?

A: Any method which falls outside the methods of peaceful procedure -- such as negotiations, persuasion and agreement -- for the achievement of an offensive or defensive aim.

Q: Is it true, Dr. Schmidt, that in Germany there were millions of people who believed that certain unpleasant systems in the internal political life in Germany, and after the first revolutionary phase had been overcome, could be eliminated by achieving the cooperation of reasonable elements?

A: The number of those who believed that, and the time or the times when they believed it are things which are hard to define. For instance, immediately after the seizure of power, after the high seas had calmed down somewhat, the number of those who believed that was probably much larger than for instance after the events of the 30th of June, 1934; and consequently there must have been some fluctuation in connection with which the number of those who believed this, in my opinion, steadily decreased as time went on.

Q: Dr. Schmidt, is it correct that after it had become known that there was a pact, with Russia, public opinion in Germany inclined to believe that war would be avoided?

A: I am inclined to say that public opinion had hopes

to that effect -- for this time.

Q: In other words, and speaking generally, the certain knowledge regarding the intentions on the part of the government to conduct an aggressive war could not be grouped by the ordinary citizen in Germany with certainty. Would you initial such a statement as I have just made?

A: A mathematically certain knowledge regarding aggressive war which had been planned could not, of course, be obtained by him and held by him, since the ordinary human being finds the conception of aggressive war a complicated one, and that doesn't only apply to ordinary human beings. The situation would change of course, and so would my answer if instead of defensive war the use of force were substituted.

Q: We are talking about aggressive war. Now, one more general question, Dr. Schmidt. You will admit, no doubt, that on the part of official sources, official propaganda, for instance, the people of Germany were always having drummed into them that Germany's intentions were purely peaceful; and that the others were having had intentions about us; is that true?

A: Yes, that is correct; that is a true statement.

Q: Now it is normal, that a citizen of a country, rather than not believe his own government would believe foreign statements; is that true?

A: The stress should be on the word "normal". Under normal conditions the answer is yes, but under circumstances which are not normal, such as those which prevailed in Germany after 1933, that by no means is so.

Q: Would you expect the ordinary, normal citizen to consistently occupy himself with this problem, and also the problem whether normal circumstances prevailed or not?

A: He doesn't always occupy himself with it. He is being occupied by outside forces for the use of sometimes very strong impressions, with the question that is, whether conditions are normal or not. These strong impressions which he gathered as time went on, and I am talking about the period very shortly after 1933, in Germany, the ones which gave me the views which I have just expressed, that is to say that he did not consider conditions to be normal, and that therefore he did not necessarily believe and could not believe in what he was told officially and by the government, and this applies to an ever increasing degree. He had to be in doubt and that his belief in what he was told would increase all the time. This was happening quite automatically without him having to do anything about it, and with that doubt that he would now have intentionally employ time to occupy himself with these matters. He had, if he had eyes and ears, then the external impressions were so strong that he had to begin to have doubts. And that his conviction had to be ever increasing that the use of force was imminent, and that it had to be reckoned with considerably.

Q: You have been saying that doubts would have to arise, that is to say, the citizen was saying to himself who knows what is going to happen; you are not going as far as saying, are you, that the ordinary citizen who after all, as you will admit to me, isn't naturally inclined to call his government a government of criminals; that his government is following aggressive politics. He would not have such an impression, would he?

A: If we narrow this down to the conception of aggressive war, then I will answer that in the affirmative. I could not do that, however, if as I have said in my

affidavit, we are concerned with the situation and the question whether public opinion could have imagined or know with some sort of probability that force was to be employed. In that case I couldn't answer the question in the affirmative.

Q: So you maintain then that the ordinary Germany citizen could not have known with certainty which political line his government would finally decide upon?

A: There is no uniform answer for the entire period with which we are concerned; even at the beginning he would of course have been somewhat more uncertain than later, when admittedly he would have said to himself -- not with mathematical certainty with which we are not concerned but with probability bordering certainty -- that here again and subsequent to the events which he would recollect, at least an attempt would probably be made to use force.

Q: Dr. Schmidt, you have repeatedly said that political events couldn't be prophesied with mathematical certainty. Do you know, or may I put it to you that even as late as 1939 there were some doubts on the part of the British ambassador in Berlin about the question whether a war would really happen. Did you have such doubts yourself?

MR. SPRECHER: Just a minute --

THE PRESIDENT: That is two questions. The latter part of that question is entirely proper. The first part as to what the British ambassador thought is certainly improper. Counsel will reframe the question and ask the witness what his doubts were; what his expectations were -- and the question is proper.

Q. You were saying, Dr. Schmidt, - is it true if I am assuming that you yourself too, to the end, had doubts in the final shape of Hitler's policies? Because I am not assuming that if it had been different, you would have remained in the position in which you were at the time, where you were in constant contact with these men.

A. I had hoped to the end, that is to say until the game was finally up, that in one way or another, possibly through renewed giving way of the opponent with regard to Hitler, a conflict might have been avoided; so far as my own position is concerned, these events of course, had no influence whatever with regard to the continuation of the work of an interpreter.

Q. But then, of course, you were not just an interpreter. But even if you had only been an interpreter, after all, an interpreter, through the contact he has with leading personalities, has privileges which most other citizens do not have. You would no doubt have had an opportunity to say a word here and a word there. Now did you consider yourself to be nothing but an interpreting machine, or didn't you, after all, as a German citizen who no doubt did not approve of a mad policy of aggression, - did you not try to do something?

A. There was no opportunity whatsoever to do such a thing, because my part was that of an interpreter who would accompany foreign visitors during visits to customers, - as I used to call these gentlemen you may remember, - and accompany these customers together with the foreigners.

In between I had no contacts with the statesmen, but first of all, I never participated in any preparatory conferences, when matters were either planned or discussed, so that for such an advisory activity, at which indubitably you are driving with your remarks, there was neither time nor opportunity.

Q. After all, you as an interpreter, had contact with leading personalities of the late regime; you had the hope right to the very end that war could be avoided. Now if you had that hope, Herr Dr. Schmidt,

you who, because of personal knowledge of the character of the people concerned, had far better judgment than the ordinary German citizen, isn't it then correct to say that the ordinary German citizen who has no personal relations to these leading German politicians, who after all is depending on what his press is telling him, judge that he would first of all be entitled to the hope that the regime would not be so foolish as to start a war, and that even it would seem probable to him, that such a folly would not be committed?

MR. SPRECHER: Objection. This is a speech, not cross-examination.

THE PRESIDENT: The question is long and somewhat involved, but if the witness understands the question he may answer it.

A. We are always talking about hopes. So far as I am concerned that was something which in English we call, "Hoping against hope", that is, in other words, the least possible measure of hope you can have. It is wishful thinking, rather a dream which approaches closely, and for that reason in my opinion, many would have found themselves in a similar position, who just like I, judged matters by virtue of the preceding affairs. We had seen, and I am saying "we" had seen, - because contrary to the assumption taken here, I was by no means so infinitely better informed than ordinary intelligent observers due to reasons recounted previously, - I saw the matters as they reproduced themselves abroad, and apart from that I looked at everything else just as any ordinary German observer would on the strength of facts, and it was from this array of facts, of the employment not of force, but the threat of force, and the policy, and the use of force in internal politics, that in my opinion, also stated on behalf of an intelligent and observant person, it had become clear that if the need would arise, as I said in my affidavit, here too Hitler would not refrain from using force. Therefore I say hope, yes but hoping against hope, wishful dreams, and actually a stranger conviction that sooner or later there would be events which you so truly described as folly, in connection with which it could be said that folly did not turn out to be an obstacle

during previous events to Hitler's deeds.

Let me just take one thing from the League of Nations. Many know that that was more folly. It was foolish to derive one iota of this possibility from an observation post, in the contact with the outside world. Quite often it was told in our circle that this was the case of a ship's captain who was taking a dangerous course, and thrown the technical instruments overboard and was now going merely by the stars and his intuition when steering the ships, where upon of course, he promptly hit upon the rocks.

Q. This, you know, was 1933, and the intelligent observer no doubt considered this clear indication that folly was no obstacle against carrying the matter through to its end. May I put it to you once again, isn't it correct that you an intelligent observance of the situation, more than anyone else, and just simply could not have imagined that Hitler would jeopardize everything that he had achieved, and I am speaking of this intelligent observer, who unlike you, had no possibility to see the facts, or who, unlike you, did not know Hitler personally, and had no opportunity to study his psychology?

MR. SPRECHER: Objection. It is cumulative and it is argumentative. The question has been asked and answered.

THE PRESIDENT: It probably has been asked, and at least partially answered. I will overrule this objection, but I think this ought to be about the limit along this line of inquiry.

The witness may answer.

A. May I ask you to repeat this question?

BY DR. SCHENELCH:

Q. I was saying, Dr. Schmidt, that the intelligent observer, most of all, would have to tell himself, or, let's put it this way, - could you not possibly have imagined, that Hitler, after so much had been achieved by him for his country, would proceed so foolishly to jeopardize everything? I have been saying an intelligent observer, who unlike you, did not know Hitler personally, and who unlike you, did

not have an opportunity to study his psychological characteristics, but who thought that he, Hitler, too, was an intelligent man with normal reactions.

A. If the observer had been intelligent, then in 1939 he could no longer consider Hitler a man who was reacting normally and intelligently. That, in my opinion, is out of the question, and the intelligent observer particularly,— let's make no difference between my own possibilities and the possibilities on the part of the normal intelligent observer,— I have already said that my possibilities were not so considerable. I came to my opinion not because I stood next to him when he was making speeches; it was quite immaterial whether somebody was standing by the loud speaker or standing next to him, I came to my opinion on the basis of the facts which he had created during the entire period and this same judgment could, of course, also have been made by any other intelligent observer who was not in the same position as I and he could not come to the conclusion which you have just put to me, namely that Hitler was too intelligent and too normal to destroy again what he had already completed. I think you said, "destroy foolishly" or put into jeopardy foolishly.

It seems to me that rashness would be a characteristic for the entire policy pursued, to an intelligent observer, and throughout the entire states which I do not want to list here, so therefore, I have to answer your question with, "No".

DR. ACHENBACH: I have no further questions.

THE PRESIDENT: We will now take our afternoon recess.

(In recess until three-fifteen o'clock)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Does the defense desire to cross examine the witness further?

CROSS EXAMINATION

BY DR. VON METZLER:

Q. Dr. Von Metzler for the defendant Raofliger. Witness, did you participate in a conference on the 23rd of November, 1939, during which Hitler reviewed the developments before the commanders of the armed forces and some other ministers?

A. No, I didn't participate.

Q. You didn't? I see.

Witness, did you participate in a conference in Hitler's office on the 5th of November, 1937, and during which the question for discussion was that of the Czechoslovakian problem?

A. No, as soon as no foreigners were there, I wasn't there either, for certain.

Q. In that case, for completeness's sake, I merely want to ask you this. Were you present during a conference in Hitler's study on the 23rd of May, 1939, when he discussed his intentions toward Poland?

A. No.

Q. You weren't either? I see.

Witness, I should like to put this question to you now with reference to Poland. Do you remember that Hitler stated on various occasions publicly, particularly with regard to Poland, that Germany had no aggressive intentions with regard to Poland?

A. Yes.

Q. And do you remember particularly a speech Hitler made on the 26th of September, 1938? This was during the Sudeten-German crisis, you know—when he stated publicly that he had informed the British Prime Minister that as far as Germany was concerned, if once the Czechoslovakian problem had been solved, there would be no further

territorial problems in Europe?

A. Yes, I do recollect that very well indeed.

Q. Do you further remember a speech made by Hitler before the Reichstag on the 13th of January, 1939, when he emphatically denied any aggressive intention with regard to Poland?

A. I don't remember it in detail but it fits the general picture which I had with regard to that attitude of Hitler's.

Q. Do you possibly recollect — and this is a matter which at the time caused a general stir in Germany — that Hitler said in the Reichstag on the 28th of April, 1939, with regard to the Polish problem, that — verbatim, and I quote: "The intention of aggressive war on Germany's part which is simply a lie invented by the international press." Is that something you remember?

A. No, I don't remember the words any more and the circumstances, but as I said earlier that fits the line adopted at the time perfectly. As far as that is concerned, I can say that generally speaking I do recollect.

Q. Witness, now let me ask you if you know the statements of Hitler with regard to the Polish problem and if you consider that when judging Germany's public opinion Do you really propose to say that the public in Germany knew with a hundred per cent certainty that Hitler was going to attack Poland and had aggressive plans?

A. No. I am certainly not inclined to say that nor did I ever try to say that, with regard to any specific country or any specific plan that there was any certainty anywhere. What I was aiming at and what I was trying to express was more generally the method which I tried to brand—and that is the method of using force which in my opinion was used quite independently from statements or camouflage actions used in individual cases which earlier were recognizable by facts created internally and externally.

Q. Witness, do you know the conception of the nerve war?

A. Yes.

Q. Then please, will you answer briefly my following question. Is it possible or probable that the German public could have adopted the view that re-armament was part of a nerve war and that behind it there was no intention whatever of a real aggressive war?

A. I could not answer this question in the affirmative to the extent of one hundred per cent. I would possibly add that admittedly people in Germany were of the opinion or could be of the opinion that rifles were being waved about in the air for just these reasons but that nevertheless in that connection one had to take into consideration the fact that recklessness and lack of knowledge when connected with the use of such instruments might cause disaster because, as I said earlier, recklessness on the strength of events which had preceded had become abundantly clear to most people.

Q. Witness, the problem with which we are here concerned is purely quite clear. Did the German public have general knowledge that certain aggressive plans were in existence or could one possibly say that the German public generally had the view that the whole story was one of a war of nerves behind which there was no serious intention of aggressive war? That is my question.

A. As far as the first part of the question is concerned, the answer is yes. Knowledge of individual aggressions did not exist. The second part of the question, whether behind it there was nothing other than a war of nerves exclusively—that I could not answer simply by saying yes.

Q. You didn't share that view then—the nerve war idea, did you, witness?

A. It was my opinion and I have previously tried to express it; namely that a war of nerves—

Q. Witness, excuse me if I interrupt you. This is a question which you can simply answer with yes or no. Was it your view that the whole

thing was a war of nerves or could be a war of nerves?

A. To answer that, I could neither answer yes or no. The possibility was in existence but there were as many arguments in favor of the theory that it was more than just a war of nerves.

Q. Then did you have doubts regarding the possibility of this being a war of nerve or not?

A. I could have doubts, yes.

Q. So with that you are trying to say, aren't you, that personally you yourself in 1939 did not have any certainty that a serious aggressive plan and intention was in existence?

A. I couldn't give you an affirmative answer to that. But so that you understand me properly I would like to say that I could perfectly well imagine that an aggressive intention was there, although the expression "aggressive intention" - I don't think is a very lucky one. I would rather like to see it replaced with the word "will on Hitler's part to use force if need be."

Q. We are merely talking about aggressive intentions, witness. You mustn't always try to replace this clear expression with another one which isn't subject of the cross examination at all.

MR. SPEECHER: Your Honor, I object to having counsel lecture to this witness. If this witness needs any reprimand, it should come from the bench.

DR. VON WETZLER: Sorry, your Honor.

THE PRESIDENT: Unfortunately, we are not able to strike from the record but the observation of the prosecution is well taken. Counsel, you may proceed.

BY MR. VON WETZLER:

Q. Now, witness, you appeared as a witness during the IMT trial as a witness for Ribbentrop. Is that true?

A. Yes.

Q. Did you give testimony then with regard to an affair which occurred after the declaration of war by Britain and France? Because in accordance with your statement you were supposed to have been in Hitler's study and you were supposed to have found out that Hitler was most surprised and somewhat painfully affected by this declaration of war. Is that correct?

A. At the time, I testified that when I arrived with the British ultimatum in my hand and went into the room, Hitler and Ribbentrop were there together. And when I had translated the document, there occurred an awkward silence of a minute which was ended with a somewhat short question put by Hitler to Ribbentrop. "What is going to happen next?"

Q. Did you have the impression on that occasion that Hitler and his collaborators had been expecting war?

A. They certainly have expected the possibility of war even in the days before.

Q. Well then, how do you explain this reaction on Hitler's part which you have just described?

A. From the fact that he had probably still hoped that things would run as they had run in Munich, in other words that the opposing party would give in and that this hope had now this time not been fulfilled.

Q. Witness, and if I understand you correctly, you are not confirming your statement about certain knowledge on the part of the German population with regard to aggressive intentions.

A. In this form, I have never in fact stated such a view.

Q. Then I misunderstood you earlier. Then how do you explain it, in order to conclude the subject, that in the IMT trial, as no doubt you well know, people like Bormann, Schirach, Sauckel, Papen, Speer, Frank, in fact close confidants of Hitler's were acquitted of the charge of the preparation of aggressive war in the indictment.

THE PRESIDENT: Objection sustained.

DR. VON METZLER: No further questions, your Honor.

DR. HENZE: Mr. President, the sound system isn't working properly. For some minutes, we haven't heard a thing.

DR. BUEPTCHER: The same applies to our bench too, your Honor.

THE PRESIDENT: Thank you for calling it to our attention. Tell the technicians to check the system and give us a signal when they think it is working. In the meantime, we will stand by.

THE INTERPRETER: Mr. President, I think there has to be a break of five minutes for the technicians to put the thing right.

THE PRESIDENT: If you can hear me, we shall recess for five minutes, to give the technical staff an opportunity to check the sound system.

Just a moment please, keep your seats.

It is our information that the sound system is now operating. We shall undertake to proceed and if any difficulty is experienced, please call it to our attention.

BY DR. SEIDL:

Q. Dr. Seidl for the defendant Walter Duerrfeld.

Witness, on the 12th of August, 1939, there was a meeting at the Obersalzberg where Hitler and the Reich Foreign Minister von Ribbentrop participated on Germany's behalf and on behalf of the Italians Foreign Minister Ciano was there. I want to ask you were you present during that conference?

A. Yes, I was there as an interpreter..

Q. Did you make a record of the proceedings in that conference?

A. Yes, as usual, I made a record. I made notes.

Q. Is it correct that during the conversation the subject of the conference turned to German-Polish relations?

A. You have to look at my notes in order to find out whether that problem was actually touched. According to my recollection, it was discussed but since that is rather a long time ago, I can't of course tell you with absolute certainty that it was; Only with rather a great degree of probability I can say yes, Poland was also discussed.

Q. Witness, I want to tell you now that this record, prepared by you, was used by the British prosecution and introduced in evidence before IET and I shall quote a paragraph from this record: "During this exchange of views, the Fuehrer was handed a telegram from Moscow and a telegram from Tokyo. The conference was briefly interrupted and Count Ciano then had the Moscow telegram handed to him. It said the Russians were agreeable to the dispatch of a German emissary to Moscow. The Reich Foreign Minister added that the Russians had been fully informed about Germany's intentions with regard to Poland. He himself by order of the Fuehrer had informed the Russian chargé d'affaires."

Q. Witness, I am asking you can you remember that in the course of this conversation a telegram with that context was also handed over and that the Italian Foreign Minister had the contents of that telegram communicated to him at that time?

MR. SPRECHER: I can't understand the possible purpose of the question. Does this have to do with Hitler's intentions that Dr. Seidl, who represented Frauck in the first case wants to go in some of these matters here and -

THE PRESIDENT: The Tribunal cannot determine at this time what the purpose of this enquiry can be. Can counsel for the defendant enlighten us what he is approaching here?

DR. SEIDL: Mr. President, this question was necessary in order to establish the understanding of the subsequent questions. The next questions which I may propose to put to this witness refers to the negotiations which took place on 23 August 1939 at Moscow and the subject and outcome of which he has exact knowledge about. These facts become necessary in order to place the Tribunal in a position to examine the logic of the conclusions adopted by this witness in his affidavits. The conclusions which this witness has come to in his affidavits are based on certain facts which he has referred to himself in the affidavits and it's my view that the Tribunal can only examine these conclusions if several facts are taken into consideration; amongst them the events shortly before the outbreak of the war.

MR. SPRECHER: The witness already said he had knowledge several weeks before of the Polish invasion by German troops, that that specific action was planned and I don't see how any detail of what happened only seven or eight days before that broke out will add to what has already been brought out in that point.

THE PRESIDENT: The ultimate enquiry here is what the state of public opinion was in Germany at the time referred to in the affidavit. It's difficult for the Tribunal to see how any light would be thrown upon that subject by any communication of the conference between the

parties mentioned in the enquiry. In what way does counsel feel that will throw any light upon the affidavit of this witness as to what the people of Germany generally understood with reference to planned aggression.

Dr. Seidl: I am of the opinion that this question is relevant because public opinion can only be formed on the basis of different facts. These facts may either be known or not known. I am furthermore of the opinion that this public opinion is to a very considerable extent based on the facts that certain facts didn't become known and that, therefore, it was important that the unknown facts couldn't be known to the witness.

THE PRESIDENT: The objection is sustained.

DR. SEIDL: In that case I have no further questions to the witness.

THE PRESIDENT: Very well.

BY DR. HOFFMANN: Hoffmann for the Defendant van der Heyde. Witness, are you of the opinion that in 1933 Hitler would have come to power if he said he was going to make a war?

A. No.

Q. Didn't he, to the contrary, say in 1933 that he didn't want war because he was an old ex-service man?

A. Yes.

Q. Wasn't there public opinion, therefore, in 1934 that Hitler wouldn't bring war to Germany?

A. As far as these statements were believed and no doubt at that time was the case with the majority they were probably of that opinion.

Q. But the answer is a contradiction to what you stated earlier. You stated Hitler would not say he would make a war, because he wouldn't have been elected; is that right?

A. Well, I don't see the contradiction.

Q. How could the others know he wanted to make war? He wasn't that well known, was he?

A. But he wasn't an unknown either and his attitude with res-

pect to the solution of problems was not unknown in Germany.

Well, on earlier occasions one could, after all, come to the conclusion that not everything he said was to be believed, because there were certain contradictions between the facts and his words.

Q. But you do admit that in 1933 general opinion was still in favor of the opinion that he wouldn't make war?

A. General opinion was always that he shouldn't make war.

Q. Didn't want to, you mean?

A. Well, yes. I will admit that in 1933 he didn't want war to happen.

Q. Witness, you have already admitted that in the press and the radio he stated he didn't want to make a war?

MR. SPEECHER: I don't see that fact is in evidence at all and I take it as contrary evidence. As is stated in Mein Kampf which certainly indicates some of these questions to be quite to the contrary to the assumption of Dr. Hoffmann. And I just don't want to have him ask false facts to be proved in evidence. The fact of the matter is that Hitler said several things in different manners at several different times.

DR. HOFFMANN: Mr. President, may I briefly reply? I am trying to develop the public opinion right at the beginning, and I begin with 1933, when Hitler came to power, when the witness says that the public opinion did not believe in aggressive war.

THE PRESIDENT: If there is a false assumption of facts in Counsel's question then the witness will have an opportunity in expressing his ideas on the subject, and he appears to be intelligent enough to do so. The objection is overruled.

DR. HOFFMANN: Witness, then I repeat; that you admit in all speeches Hitler again and again emphasized his wish for peace.

A. Yes.

Q. Witness, how could public opinion gather a different picture?

A. By use of comparison between speeches and facts and by

reviewing previous facts, too.

Q. Witness, I would like to discuss another question now. You agree that up until 1933 that one would believe what was written in the papers would be true?

A. That question I can't answer. It's dependent upon the sort of newspaper you would deal with.

Q. Well, what was your favorite rag you depended on and you more or less depended upon as to what was the truth?

A. I wouldn't unreservedly say that.

Q. Witness, let me ask you next; you surely will admit that after 1933 it was only slowly and very gradually one had to get used to read between the lines or do you want to say that this was necessary as early as 1934, 1935 and 1936.

A. Some people and particularly some items could be read between the lines even before 1933.

Q. Witness, it is not the question, what you and your friends were reading; I am discussing public opinion with you and about that you are being asked what everyone in Germany knew, and you must admit that one could find out gradually only what was true and what was not. Are you trying to assert that every German knew as early as 1933 what the Volkische Beobachter wrote was nothing but lies.

A. Not every German but quite a few did.

Q. Then do you think witness, that first knowledge of the untrue character of all speeches was generally gained?

A. That's a question which can't be answered in that manner at all because not everything was untrue in the speeches, it was a mixture between reality and lies and there again I have to regard the various times when the individual speeches were made and the fields which were involved.

You can't answer it like that.

Q. Do you agree with me, witness, that after the beginning of World War I that after 1939 public opinion might have had good reasons to believe in the untrue character of those peace assertions?

A. May I ask you which peace assertions, please?

Q. Hitler --

MR. SPRECHER: Your Honor, as I got the translation I think it's improper cross examination. As I understand the question has to do with Hitler's peace assertions after 1939, after World War II had begun. I don't understand it.

THE PRESIDENT: Apparently counsel is undertaking to find out when public opinion reached a certain state. That's proper. You may proceed.

A. May I ask you to repeat the question again?

BY DR. HOFFMAN:

Q. Witness, are you of the opinion after World War II, after 1939, public opinion was that peace assertions of Hitler's weren't worth being believed?

A. Yes, in my view.

Q. Witness, do you believe that this opinion was only created after the beginning of 1939 or even earlier? Wasn't it only the outbreak of the war which formed the public opinion which you are describing? Wasn't it up to that time not public opinion?

A. One might, of course, doubt, because the war had not started yet, and because naturally everyone hopes until the last minute that a catastrophe might be avoided.

Q. Witness, I don't want to know about hopes. I want to know what public opinion was, at least in your opinion. Can you say about that?

A. Counsel, the hope was that very opinion.

Q. Then until 1939 there was no public opinion to the effect that there would be an aggressive war?

A. But the danger was there and was developing towards an aggressive war but there was hope that something and in the very last minute would possibly avert the trouble.

Q. Does that same view of yours apply to the years of 1933, 1934 and 1935 or does 1937 or when do you think that this combination had to be made?

A. 1938 or 1939 and to a certain extent at the different crises that came up previously.

Q. You were an interpreter for Ribbentrop. You possibly translated this document which was submitted to IHT. My colleague Achenbach has mentioned it. The German-English peace treaty of 30 Sept. 1938. There it says: "We had another discussion to-day and agreed upon the fact that the question of the Anglo-German relations is of great significance for these countries and Europe. To consider the agreement signed last night as a symbol for the wish for both people never to go to war against each other again. Surely you translated that?

A. That may well be.

Q. You considered that a lie.

A. No, but from that, I gathered, like everybody else, now hope but for a short time only. It lasted only until the famous Saarbrücken speech, when Hitler played another tune, which was in no agreement with the other speech.

Q. Witness, didn't you in view of this fact believe that the public opinion at that time was that a war was averted?

A. Yes.

Q. It then was public opinion generally in Germany in September 1938 that there would not be a war?

A. Within the limited period I have just described. That may be assumed not for everybody but for the majority of German public opinion to this publication of the Anglo-German agreement after Munich until the Saarbrücken speech.

Q. Witness, you have drawn a dividing line between the question, whether the public opinion believed in an aggressive intention and the question of the use of force. If I understood you correctly your affidavit was not meant to say that no one in Germany that Hitler was going to make an aggressive war.

A. No, I wasn't intending to say that, first of all, because the expression "aggressive war" is something very technical. An individual who is not familiar with these matters cannot derive from it a clear detail and, therefore, in my affidavit I would, of course, always speak of "use of force" and particularly if I look at the type of question but here this afternoon once again I attach a certain amount of importance to my elucidating the intention of talking about the "use of force" in my affidavit and that aggressive war isn't mentioned.

Q. And that is less than aggressive war.

A. I can't answer that question simply and that's just what I want to explain to you. The term "aggressive war" and an "aggressor" is something vague and I remember that there were two or three meetings in Geneva where I participated which were held with the

Americans to define the term "aggressor." It was never successful and because the term "aggressor" and the term "aggressive war" as these examples show are very vague for a non-expert and something unclarified for non-expert. Up to that time I attached importance to it for not using it because I couldn't possibly define it myself. I could not say whether "use of force" means more or less. It means the pursuance of certain aims not by means of negotiation but by means of force. It's a question of the method.

JUDGE MORRIS: May I interject a personal observation here? Counsel is plowing the same field for about the third time. He apparently got frequently far away from the contents of the affidavit which is really the basis of the prosecution's claim and we have now degenerated into a situation which is more of a badgering of the witness than it is a cross examination and I personally want to make the suggestion that we should reach pretty quickly the limit of this type of cross examination and the completion of the testimony of this witness, unless there is some new and untouched field. We are going over pretty much the same ground with at least 3 counsels now.

BY DR. HOFFMANN:

Q. Witness, I have no more question to ask you; were you a member of the SS?

A. I merely wore the uniform.

Q. What does that mean?

A. That means when at a meeting of the committee I appeared as the only civilian wearing top-hat and dress suit I made a bad impression and therefore Hitler gave me the order to appear in uniform in the future, SS uniform, but in subsequent times this wasn't necessary any more, because the Foreign Office people got their own uniforms and the objections for civilian clothes was thus eliminated.

Q. But you were a member of the ranking list, weren't you?

A. For that reason I was, of course, in the ranking list, yes.

Q. So, the membership in the ranking list in your view doesn't

mean you were actually a member?

A. No.

Q. I have no further questions.

BY DR. DIX: I should like very much to put one question in connection with the finding of the LIT with regard to knowledge of aggressive war and the relationship of those findings with regard to the knowledge of the ordinary German. Of course, it is known to you that Schacht was acquitted and no doubt it will be known to you that Schacht played an important part during Germany's rearmament.

A. Yes.

Q. Then I may briefly quote to you from a relevant part of the judgment, "It is clear that Schacht was an important personage in connection with the German rearmament program. The measures he took, especially in the first days of the Nazi Regime were responsible for Germany's raise in the beginning of the Hitler regime. But rearmament is not criminal according to the charter. If it's to be a crime against Art. 6 of the Charter then it would have to be shown that Schacht furthered rearmament as part of a plan for aggressive wars." Now, I would like to put the same question with respect to Doenitz. Of course, it's known to you that also Doenitz was acquitted with regard to that same point. No doubt you know this fact.

A. Yes.

Q. And you know, now, that Doenitz had long before the war played an important part in the rearmament of the German navy.

(Bad film)

and I want to ask you whether the ordinary German knew more than Schacht or Doenitz about Germany's plans for aggressive war?

A. Certainly not.

Q. Thank you. That's all I wanted, but then I have no further question. It goes put to you, why you did not do anything against the policy pursued by Hitler, when you were his personal interpreter, and in this connection I want to ask you, was anything known outside of the inner circle, was anything known in the opposition- was it possible

before the war to assert oneself before Hitler and represent the view publicly or the supposition that Hitler wanted an aggressive war? Could anybody pronounce that opinion or try to prove it?

A: No.

Q: Thank you, very much.

BY DR. LUSMERT:

Q: Dr. Lusmert for the defendant Kuehne. Mr. President, I have only one short supplementary question; it refers to the last part of the affidavit NI-7765 and before putting the question I should like to quote a few sentences from the declaration of the Austrian bishops and to put them to you so that I can question you about them. It's already been used by Dr. Schenbach in his cross examination.

MR. SPEECHER: Your Honors, this method of getting quotations from different things before you I must object to. I can't see how we have to hear anymore about what the Austrian bishops did. I thought it was clear we didn't want to hear anymore about that.

DR. LUMBERT: May I reply, Mr. President?

THE PRESIDENT: It is not necessary. The Tribunal can't pass upon the admissibility of this question until we know what it is, and Counsel for the Prosecution need have no apprehension about the Tribunal being concerned about something that is not competently before it.

The objection is overruled.

DR. LUMBERT: This declaration is a matter of history. The Tribunal could actually take judicial notice of it.

THE PRESIDENT: The Tribunal has ruled. Please state your question to the witness.

DR. LUMBERT: May I quote the following sentences from this declaration. I quote:

"After detailed consultations, we, the bishops of Austria, with view to the part of history which Austria's people are going through, and in recognition of the fact that in our days a longing existing for a thousand years on the part of our people for unity with the Reich of Germans will now find its fulfillment, we have decided to put the following request before all our followers."

And now I am going to quote from the actual solemn declaration the following sentences:

"Due to our innermost conviction and by our own free will, we, the undersigned bishops of Austria, declare on the occasion of the historic affairs now happening in German Austria that we happily recognize that the National Socialist Movement in the sphere of national and economic reconstruction and social politics has done for Germany's people and the various parts of that people what can be described as leading achievements. It is our conviction that due to the activities of the National Socialist Movement that danger of an all-destructive Bolshevism

has averted. The bishops will give their best wishes to the movement in the future and will admonish their followers in that sense. On the day of the plebiscite it is a matter of a national duty for us that we as Germans should join the German Reich and we expect all Christian followers that they must know what they owe to their people."

This statement was signed by all bishops in Austria, six or seven of them; personal signatures appeared -

THE PRESIDENT: Complete your question to the witness.

DR. LUMBERT: And Archbishop Innitzer signed the accompanying letter with "Heil Hitler!"

BY DR. LUMBERT:

Q. Now I am coming to my question. Witness, at the end of your affidavit, HL-7766, you speak about the annexing of Austria as being an example of the gradually deteriorating situation of Austria and that is proved here. Now here is my question. Would you assume that after this declaration by the Austrian bishops all good Germans and Christians did really consider what you call the Anschluss to be such an outstanding proof of a fatal criminal policy?

THE PRESIDENT: Now, just a moment. Does the Prosecution desire to renew its objection?

MR. SPEECHER: Yes.

THE PRESIDENT: The objection is sustained.

DR. LUMBERT: In that case maybe I can put this question to the witness.

BY DR. LUMBERT:

Q. What in your view was the influence of this declaration upon the public opinion in Germany at the time?

MR. SPEECHER: Objection.

THE PRESIDENT: The objection is sustained.

DR. LUMBERT: Thank you very much.

DR. SILCHER: Silcher for Dr. von Knieriem.

CROSS EXAMINATION

BY DR. SILCHER:

Q. Dr. Schmidt, you said and you attached importance to the declaration that you never spoke of aggressive war but the use of forces. Is that so?

A. Yes.

Q. And then you added that the use of force was merely a question of method which might just as well lead to offensive as well as defensive purposes?

A. Yes.

Q. Good. Let's keep that up. Now you are saying the use of force — let me put my question this way: Do you know of the old slogan invented by the Romans "Si vis pacem, para bellum"?

A. Yes.

Q. And do you believe that in the public opinion in Germany and the world since the time of the Romans the Reich has changed so much that this slogan coined by experience could no longer be applied in 1933, or did it still find its application in German public view?

A. It was still applicable.

Q. Do you believe that the preparation for cases where force was used technically known as rearmament must, therefore, according to German public views, also be understood to mean that one was preparing oneself for such cases of force in order to preserve peace?

A. This interpretation, too, was a possibility.

Q. Was it possible that in Germany due to the international distribution of power in, shall we say, 1933 the view might have prevailed, and I am now going to use words which a few days ago were spoken by the British Defense Minister, Alexander, and it is quite the same slogan, that in the Council of Nations Germany would not be given enough authority and respect, because the power behind it and the armament power behind it compared to that of all the other nations of the world, particularly European neighbors, was insufficient?

A. Yes, you might have had that opinion.

Q. Then if, therefore, the German Government pursued a rearmament policy, might one not have been of the opinion that this might serve the purpose in the field of rearmament of re-establishing the somewhat disturbed balance in that field, and that the word of Germany in the Council of Nations might itself be given due respect, authority and weight?

A. Up to the point where Germany's rearmament did only reach the level of the others, you might have had that view. After that, when it went beyond that and overtook the lead of others, it was already a little more difficult to have that view and consider it the correct one; and it became very difficult when you considered, who was rearming and how the person in question had acted on other occasions, when again the question was — though in another sphere — that of using force or whether one might have used a persuasion.

Q. Do you believe that the time when Germany's armament — post-armament, let us call it — had reached the level of others — in connection with which I leave open the question what the level of the others — and after all there are very many nations — was, that this for Germany's public opinion was clearly recognizable?

A. A certain date can hardly be affixed to that.

Q. Would this not also require such knowledge — I mean such conception, a somewhat detailed knowledge, of the actual armament level on the part of the rest of the world? Otherwise you won't have the comparison if you were to compare accurately.

A. Then the answer is, of course; but in order to form an opinion, exact knowledge would not have to have been used, but whoever was forming an opinion would use impressions of the rearmament of others. The question would be, whether he had the impression that rearmament in his own country was gradually exceeding rearmament on the part of others. Whether this would have been so in fact, that is another question.

Q. And now a similar point. Is it again an old fact gathered from

experience which would have its corresponding influence on public opinion in Germany at the time that — incidentally this is just another side of the "si vis pacem, para bellum" — and I quote again Minister Alexander, or I will use his words to be more accurate — show peace cannot be maintained with weak forces, and that, to the contrary, this would merely promote aggression?

MR. SPEECHER: Objection.

THE PRESIDENT: A while ago it was observed by Judge Morris that in his personal opinion this cross examination had reached a point where it was no longer regarded as very helpful in the consideration of this case. I am authorized to say that that personal opinion expressed by Judge Morris expresses the opinion of the entire Tribunal. Unless Counsel can turn to some subject that is pertinent and important, we think that this cross examination ought to be very promptly brought to a close. We do not see that the present question is helpful in any way whatever.

The objection is sustained.

DR. SILCHER: Since this was my last question, Mr. President, and since I believe that the putting of the question alone is sufficient clarification of the point, may I conclude the cross examination?

MR. SPEECHER: What I wanted to say, Your Honors, is that I think that has been the nature of this cross examination.

THE PRESIDENT: There is nothing before the Tribunal whatever, unless there is some further cross examination of this witness. The Tribunal will excuse the witness from the stand. Is there to be any further cross examination? There has been no manifestation for any further cross examination, and the Marshal may escort the witness from the stand.

MR. SPRECHER: May it please your Honors, we had anticipated the possibility of putting on the film, "The Nazi Rise to Power", but due to the length of the cross examination that will not be feasible this afternoon. We would like to finish out the full day that you had planned and we have an alternative and we would like to lay it before you.

Either we can put on the witness, Von Heider now and if the cross examination is as long as we have some promise of its being, he will have to be interrupted tomorrow morning so that this film can be put on. Or we could go on with documents now concerning Section G of Count 1, and then interrupt tomorrow morning. Could we ask your preference?

THE PRESIDENT: Why would it be necessary to interrupt the cross examination to see the film in the morning?

MR. SPRECHER: Well, we were very anxious to bring it in connection with the testimony of the witness Schmidt. It has a very direct relation thereto and it also takes such a long time that you nearly have to take two-thirds of a full session, you see.

THE PRESIDENT: Well, it is entirely possible that we would complete the cross examination of this witness tomorrow, it seems to us, and also see the film. The Tribunal suggests that you proceed with the next witness in order to make as much progress as we can.

MR. SPRECHER: We would like to call then the witness von Heider.

KARL VON HEIDER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q The witness will stand, hold up his right hand and repeat his name.

A Karl von Heider.

Q The witness will now repeat after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: The witness may be seated. This witness is with the Prosecution.

DIRECT EXAMINATION:

BY MR. SPRECHER:

Q Will you state your full name for the record?

A Karl von Heider.

Q What is your present address?

A My present address is Frankfurt on the Main, Grillparzerstrasse 83.

Q And did you also live in Frankfurt between 1933 and 1945?

A Yes.

Q How old are you now, Mr. von Heider?

A My age is nearly 59 years.

Q When did you first become associated with either Farben or one of the predecessor companies of I.G. Farben?

A That was in the year of 1921, June, 1921.

Q Before that time had you been an officer in the German Army during the First World War throughout the period of that war, 1914 to 1918?

A Yes.

Q What was the company to which you first became attached after the war, I mean predecessor company of Farben?

A I was with the SKF-Normax, a firm which sold ball bearings.

Q I mean to come to your employment with the Grischheim Elektron in 1921. Did that employment last up until the reorganization of Farben in 1925 and 1926?

A Yes.

Q And then you continued on in the same locality?

A Yes.

Q What was your first job after I.G. Farben became an "A.G." or Aktiengesellschaft?

A My first job was in the Sales Combine Chemicals. I was the head of the sales department.

Q Did you remain in the Sales Combine Chemicals from the then until the German collapse in 1945?

A Yes.

Q Did you act directly under any of the defendants in the dock during this period?

A Yes. I acted, partly, under Mr. Haefliger and later under Dr. von Schnitzler.

Q Is it true that for most of the time, from 1933 to 1934, when the Vorstand member Weber-Andreas died, that you were principally and directly subordinate to him?

A Yes.

Q It is also true that part of your duties during that time, however, did come under the jurisdiction of the defendant Haefliger?

A Yes.

Q Up until the collapse of Germany -- well, I will remove the restriction. Do you feel friendly toward the defendant von Schnitzler and Haefliger now and have always felt friendly toward them?

A Yes.

Q Do you recall when you first came in contact with representatives of the office of U.S. Chief of Counsel?

A I cannot give you the exact date when the American gentleman of the Prosecution approached me. I think it was at the beginning of 1947. It may have been 1946.

Q Tell us whether or not at that time, at the beginning of the investigation so far as it pertained to you, you were advised concerning the nature of perjury and the fact that there was a penalty therefore?

A Yes.

Q Had you been participating in the investigations in 1945, the last part of 1945 and the early part of 1946 which other American

authorities conducted around Frankfurt?

A Yes.

Q At that time were you also advised of the perjury factor?

A Yes.

Q Now, Mr. von Heider, do you have before you copies in the language of the original of the following documents: NI-5008, which is Exhibit 305?

A Yes.

Q NI-7318, which is Exhibit 372?

A Yes.

Q NI-5177, which is Exhibit 374?

A Yes, I find 51 77 but it bears a different exhibit number.

Q Well, in any event, you have the affidavit marked NI-5177. Do you have the document marked NI-9201, which is Prosecution Exhibit 395?

A Yes, Prosecution Exhibit 395.

Q And Document No. NI-9204, Prosecution Exhibit 583?

A Yes.

Q And NI-9126, Prosecution Exhibit 661?

A Yes.

Q And NI-8152, Prosecution Exhibit 746?

A Yes.

Q Mr. von Heider, did you go through these affidavits with me in the last two or three days in order to indicate any corrections or additions which you desired to make which had occurred to you since the time of the execution of the first of these affidavits which I believe was in January, 1947?

A Yes.

Q Would you then take each of the affidavits, Mr. von Heider, in the order I listed them to you?

MR. SPRECHER: I think, to save time, if I merely point out the corrections by the paragraph myself, merely mentioning the paragraph, we

can save a little time. Is that agreeable?

THE PRESIDENT: Very well.

BY MR. SPRECHER:

(Continuing)

Q Firstly, concerning NI-5008, the statement concerning Dr. Kugler, is it true that the facts in that affidavit were generally worked out by the Defendant Kugler himself and that you then checked those facts against the files in Frankfurt?

A Yes.

Q Coming to Paragraph 11, you have a correction, I believe. Would you state that?

A Yes. It says there: "Dr. Kugler received the order from the Ministry of Economics to take over the leadership of the Aussig-Felkenau Factory." I would say the leadership in a capacity of a Commissar.

Q In other words, instead of saying just a normal direction you want to say a direction in the nature of a Commissar's direction?

A Yes, that is right.

Q Do you have any other additions to that affidavit?

A In the copy which is before me, there is a misprint. Under Item 15 it says "September 1945." It should say "December 1943."

Q It is correct in the English. Any others, witness?

A No, not in this document.

Q Would you pass then, please, to the next document I mentioned, NI-7318? That is Exhibit 372 and I think a much more important affidavit, your Honors. It is in Book 14, the English, Page 63; the German, Page 89. You had a correction, I believe, at the end of paragraph 2 of that affidavit?

A Yes. It says in the German text, which is before me, and I quote: "His own sale organization differed from a normal factory." I say that is a typographical error. It should say, "Which does not differ at all from a normal factory."

Q.- That two, is alright in the English; and I believe you had a correction in the last part of paragraph 7.

A.- Yes, I would say in the last sentence: "Since all these conferences as a rule followed immediately one upon another."

Q.- And I have noted here a question under paragraph 16.

A.- Yes, it says here, "The Secretary, who, however, was not a member of the committee." I would say, "Mostly he who was not a member of the committee."

Q.- That is to say the secretaries of these various committees for the most part were not members of a committee but that is to say in the most part they were members of a committee. Is that correct?

A.- Yes.

Q.- Do you have any further corrections to that affidavit?

A.- No.

Q.- Can we pass then to NI-5177, Prosecution Exhibit 374? Do you have any corrections in that affidavit?

A.- No.

Q.- May we pass then to NI-9201, Prosecution Exhibit 395. Any corrections there?

A.- I have no corrections to make.

Q.- And then NI-9204, Prosecution Exhibit 583.

A.- No corrections to make.

Q.- And to NI-9126, Prosecution Exhibit 661. Do you have any corrections?

A.- No corrections.

Q.- Your Honors, I have only one or two small questions concerning this affidavit. Do you recall approximately the tonnage of the documents which were destroyed in Frankfurt alone as far as the I.G. Farben headquarters are concerned?

A.- The people in the boiler house estimated it to be approximately

15 tons.

Q.- Dr. von Heider, will you turn over to page 8 of the original in the document where there is an entry under the letter B-1 and note it is stated there that according to the list prepared by Brickert there were destroyed "secret plans regarding the contemplated distribution of the productions of the European Chemical Producers after the war." Do you know to what those plans refer?

A.- These plans refer to what we called peace planning. It refers to a plan which was worked out and emanated in the Reich Ministry of Economy and which stipulated conditions according to which chemical industry was to be steered in a reasonable manner after peace had been established.

Q.- Is that otherwise known as the new order or Neue Ordnung Plan?

A.- Yes, that means the same thing.

Q.- I am sorry counsel that was at page 8 of the original German. You will find the inter-enumeration in the affidavit. I don't know the exact page in the Document Book; under item B-1. Now on page 10 of the original document under the item Department A-3 speaking of Fleiger there is a reference to the destruction of the same type of documents, does that also refer to the new order plan?

A.- Yes.

Q.- Then the last affidavit is NI ——— excuse me, do you have any further corrections to the last affidavit?

A.- No.

Q.- Now, the next affidavit is NI-El52, Prosecution Exhibit 746. Mr von Heider, you have a correction as I recall it in paragraph 5. Is that right?

A.- Yes, I would strike the two words, "sehr, sehr", "very, very," and I would just say it was difficult to conceal the situation.

Q.- Do you know the words, "open secret," is that used in the German

language?

A.- Yes.

Q.- Tell us whether or not you would describe the secret of stockpiling a so-called open secret or not?

A.- Approximately, yes.

Q.- In paragraph 6 you have some corrections I believe?

A.- Yes, at the end of the first sentence it says, "since from these chemicals all possible sorts of poison gases could be produced," — "all possible" I would omit in that sentence.

Q.- And merely say "poison gases" is that correct?

A.- Only "poison gases" that's right. In the next sentence I would say: It says, and I quote, "only in the intermediate from which gases could be produced." I think it would be clearer if one said, and I quote, "from which gases as well as other chemical products could be produced."

Q.- Anything further?

A.- No.

THE PRESIDENT: Are you now releasing the witness for cross-examination?

MR. SPEECHER: Yes.

THE PRESIDENT: It is so near the hour of adjournment that we will not ask counsel for the defense to start their cross-examination until morning. In the meantime the Tribunal would like to make this observation. We certainly do not wish to be understood as being too harsh in this matter of controlling or limiting the cross-examination of any witness. We want to be indulgent to the extent that we are satisfied that you have exhausted every possible source of helpfulness to your client. However, we do have a definite responsibility to see that this case moves along in an orderly and expeditious manner. We realize also there are difficulties of language and nationality involved; there are a great

many members of the staff of counsel for the defense; we shall try not to be unmindful of those things. We will ask your very hearty cooperation to the fullest extent of trying to expedite as far as possible the cross-examination of these witnesses. As we remarked this morning there are perhaps a hundred affidavits in evidence or to be expected to be put in evidence by the Prosecution and some forty or more affiants who may be presented for cross-examination. If we take as much time as we have heretofore in the examination of all of those witnesses, you gentlemen yourselves are going to be come very tired of the process and we only ask your very sincere cooperation in limiting it as much as possible and the Tribunal will try to work with you to that end. Thank you very much, and the Tribunal will now rise until 9:30 tomorrow morning.

THE MARSHAL: The Tribunal will be in recess until 0930 o'clock tomorrow morning.

(The Tribunal adjourned until 3 October 1947 at 0930 hours.)

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 3 October 1947, 0930-1630, Justice Shake, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI, Military Tribunal No. VI is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

THE PRESIDENT: Are the defendants present?

THE MARSHAL: May it please Your Honor, all the defendants are present save the defendants Wurster absent due to illness.

THE PRESIDENT: Are there any preliminary motions or announcements?

MR. SPEECHER: Mr. President, Dr. Boettcher for the Defense Counsel this morning raised a matter with me which I think both of us are very hopeful might lead to a deduction in the possible cross examination of some of the witnesses who have given affidavits.

Dr. Boettcher asked me if it was clear that when the Defense did not insist upon the cross examination of a witness, if that in any way indicated that they were agreeing to the statements of the witness, or if in any way it prevented them from introducing evidence through their own witnesses or by documents which contradicted what was in the affidavit introduced by the Prosecution.

I informed Dr. Boettcher that it was clearly the view of the Prosecution that the Defense made no such waiver or admission by not insisting upon cross examination. I told him I would lay the matter before Your Honors to determine whether or not I was correct.

DR. von HETZLER: Dr. von Boettcher for the Defense.

Your Honors, we are very grateful to the Prosecutor for having raised this point in the interest of the Defense. May I supplement the statement of the Prosecutor. If the Defense do not call an affiant for the purpose of cross examination, the question, in my opinion, is will this piece of evidence then be regarded as uncontested and will

therefore, this affidavit carry a greater weight and, therefore, have a greater probative value than an affidavit which has been subjected to cross examination?

THE PRESIDENT: The Tribunal feels that the statement made to Counsel for the Defense by the Prosecution is a fair and correct statement of the procedure that the Tribunal will follow. We will amplify that by saying that the Defense waives nothing with respect to its right to show what it understands the facts to be by its failure to cross examine a witness. In other words, the Defense may determine for itself and certainly without prejudice whether it will undertake to dispute the facts contained in the affidavit by cross examination or by the Prosecution of its own witnesses and documents when the Defense reaches its case in chief.

Since the matter has been mentioned, I may say on behalf on the Tribunal that some of the apparent impatience of the Tribunal on yesterday with respect to the course of the cross examination was suggested to us to be due to the fact that Counsel for the Defense was not really cross examining the witness but was undertaking to go into matters which would have been better postponed until you reached your defense. Frankly, we think that was in a large measure responsible for the difficulties that we had yesterday. In other words, the scope of cross examination to inquire into the things about which the witness has testified in chief, or in this case by affidavit. You are not entitled to go outside that field.

We felt yesterday that in many, many instances Counsel for the Defense perhaps did not fully understand that practice and was getting beyond the scope of cross examination. Now in order that there may be no misunderstanding, let me reiterate that the Defense does not admit the facts contained in the affidavit by its failure to cross examine the witness. Of course, if the facts are not disputed in any way, they would be before the Tribunal for what they may be worth; but you may

choose without prejudice of the rights of your clients whether you will undertake to disprove the facts contained in the affidavit by the cross examination of the witness or whether you will wait until you get into your own defense and then by your own witness and your own documents disprove the facts contained in the affidavit in that manner.

If the Tribunal has not made itself clear as to what we understand the proper practice to be, we shall be glad to try to answer any specific questions that any individual member of the staff of defense attorneys feel would be proper at this time. We should like to have a very clear understanding of that because we think it might expedite the trial of the case.

DR. GIERLICKS: Gierlicks for the defendant Dr. Schnitz.

Your Honors, I am very grateful for the clarification of the functions of cross examination which we have just heard again from the President. I should like to ask one question, and I should like to be instructed by the Tribunal because this might avoid future difficulties.

The system of cross examination is completely foreign to German procedure, and it is not easy for us to adapt ourselves to this procedure. In general we have no difficulty with regard to the scope of cross examination if the witness had testified to facts, because then the scope of the examination seems to be clear cut. It is much more difficult for us when the witness expresses opinions, political attitudes, general ideas, when he himself does not make it absolutely clear what was the line of his thought and what absolutely clear facts led him to his conclusions. In such cases I personally have held the point of view up to now that in cross examination it is permissible, first of all to ask questions to determine the process of thought on which the opinion has been expressed, the political, economic or other kind of opinion, and after determining this facts, to build up a contrary series of thoughts in an attempt to dispute this opinion which is very contain to facts. I would be extremely grateful to the Tribunal if we could have a somewhat more concrete instruction from the Tribunal on this question.

THE PRESIDENT: The President can well understand the difficulties Counsel for the Defense find themselves in with respect to the cross examination of a witness who may be in the field of an expert who is not testifying as to specific facts but who is expressing opinions. Ordinarily the scope of cross examination in such cases is the source of the witness information upon which he bases his opinion; that is to say, it is proper to inquire if he knew other facts and if he took other facts into consideration when he formed the opinion expressed in the affidavit, and you may also ask him questions that would affect his credibility and the weight that the Tribunal should attach to his opinion, whether he knows much or little about the subject and upon what sources of information he based his opinion, and whether if he had taken other facts into consideration, his opinion might have been different from the one expressed.

This is a comprehensive subject, and we well appreciate the difficulties in which Counsel for the Defense find themselves because of the fundamental differences between the two systems of jurisprudence with which we here confronted, the difference in your practice from ours, so to speak.

The President is going to take the liberty of asking Judge Morris to make such observations as he thinks pertinent that may throw some light on this matter of practice in the hope that perhaps another person expressing what we take the proper practice to be would reinforce it better in your minds and make it clearer to you; and if he will do it, I am going to ask Judge Morris to make whatever comments with reference to this matter which he thinks would be proper and timely.

JUDGE MORRIS: Well, thank you, Mr. President.

I may not be able to add much to the statement that the President has already made which in my mind rather clearly states the general province of cross examination, but perhaps just using a little different words from somebody else might help a little bit.

The concept of cross examination is developed along at least two and possible three lines. Counsel has very properly mentioned the first

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and the easiest line of cross examination. That develops from an attempt to test the witness with regard to specific facts. If he makes a statement of fact, then you are entitled to ask questions which bring out how he knows the fact if he had taken into consideration certain related facts which the witness can be shown to know. That line of cross examination deals with strictly factual testimony, and you have rightly stated, Counsel, the difficulties usually arise when the witness has testified to matters of opinion such as we had yesterday with regard to the general knowledge of the people of Germany concerning certain conditions that the Prosecution contends were developing within the Nation of Germany.

Now, in order to properly cross examine with respect to a question of that scope, you may do two things. You may test what we call the credibility of the witness or his capacity for making the statement and reaching the conclusion which he did. That test may properly reach into the background of the witness' own experience, who was associated with, what kind of work he performed, the sources of the information which he used in reaching the conclusion which he expressed; and I think that branch of the cross examination was pretty thoroughly understood from what happened yesterday and was pursued generally within the proper limits. I think we got more into difficulty when we sometimes got outside that question of credibility and reached over into matters that might possibly have bordered more on ultimate defense than it was testing the truth or falsity of the assertions that were made in the affidavit.

For instance, whether or not the witness agreed or disagreed with certain statements that had been made by an Englishman in a book, for instance. That clearly did not bear upon the witness's own ability to reach the conclusion which he expressed, and for that reason the President of the Tribunal ruled that testing the witness by reading to him a conclusion that somebody else had reached who was not even under oath when he made the statement, but wrote it in a book, was not a proper means of testing the witness or the witness's statements. It might just prove that he agreed or disagreed with what somebody else said, which was entirely beside the point of issue.

Now, when we come to some more closer questions which we were compelled to rule upon, we reached situations like this: For instance, "Did the witness know, and when he made his statement in his affidavit did he take into consideration certain particular political developments in Germany and the general attitude of the German people with respect to these particular developments?" These questions were usually allowed. But when we got over into the realm of attempting to test the witness by assertions that were made, for instance, in private conferences between certain high German officials, we got over into a realm of proving what or what these officials did or did not say, but had no particular relation to the general knowledge that the people in Germany may have had. These questions were ruled out.

Now, I may have added nothing to the clarity of this thing, but I tried to use a few of the examples that we ran into yesterday, and I can only leave you with these suggestions that are, of course, general: First, test the credibility of the witness by finding out how much he knows about the subject that he testified about or gave the affidavit about—what his background is, what his knowledge is, what his opportunity was for having knowledge. And then you can get into more specific detail by, for instance, if you had other statements which the same witness had made which didn't coincide with the ones in the affidavit, his attention could be called to that in order that he may

then be required to explain the conflict. Or if he makes conflicting statements in two affidavits, that may be called to his attention. In other words, you go into those things which have a direct bearing on his ability to make the statement, then those things which may reflect upon the truth of the statement he makes by showing inconsistencies in his own statement or his own conduct with reference to the subject-matter.

THE PRESIDENT: Thank you Judge Morris. And now, gentlemen, I am going to ask of my other associate, Judge Herbert, to give you the benefit of his observations with reference to the matter under consideration.

JUDGE HERBERT: Thank you, Mr. President. Well, there's probably very little to be added to the very complete and clear statements which have been made on this subject. It is obvious, of course, that in the past two days we have had many many instances in the process of cross-examination in which counsel for the defense was using this opportunity of cross-examination for the purpose of conducting what might be described as a running counter-argument to the testimony of the witness. There were many instances in which, following the reply of witnesses to questions on cross-examination, counsel would then testify in chief or would interject, "That is not correct, Witness; we will show that later," all of which goes to reinforce the observations which have been made by Judge Morris and which are similarly pertinent to the suggestion made by Mr. Sprecher, following the discussion with Dr. Scootcher, namely, that many matters of defense were anticipated in cross-examination.

Now certainly, even in the interest of conserving time, no member of this Tribunal has the slightest disposition to take a position which would prevent any relevant fact having probative value from being brought out in these proceedings, but it seems that the suggestion made is a very sensible suggestion. Counsel for defense will not be waiving any rights in the matter if they elect not to cross-examine a witness,

because there are many other avenues open for controverting the testimony of a witness, whether given on the stand or given in affidavit form. And certainly you do not waive that right by refusing or failing to ask questions on cross-examination.

As the President has indicated, of course, if the evidence is not controverted in some fashion or if it is not disputed, then it is entitled to whatever weight it has as a piece of evidence before the Tribunal. But, speaking for myself, I can say that many of the attempts of the defense in this cross-examination to destroy some of the weight of the testimony probably had an entirely different effect, and that the purpose of counsel might perhaps have been achieved much more easily by reserving that for the testimony when the defense gets to its case in chief. Of course, you will not be waiving your rights, but on the other hand I think that the Tribunal should make it clear that this is a decision which can only be made by counsel for the defense. You know what your respective positions are, and you alone are in a position to judge whether it is wise to cross-examine a particular witness, or the extent to which that cross-examination should be limited. And in this connection, I am pleased to observe that already it is evident that counsel for the defense is employing to a limited extent the practice of designating one counsel to conduct a cross-examination. It will, of course, conserve time if that can be done in as many instances as possible. It is not necessary for each defense counsel to cross-examine every witness, if some wise arrangements can be made for designating a spokesman who will at the time he is on his feet, bring out all of the relevant questions.

Now, I think I have probably added not a great deal to the discussion, but I believe that is all I have to say at this time, Mr. President.

THE PRESIDENT: Thank you, Judge Hobert. Now, I am getting back to the specific question that was propounded at the beginning of this discussion, I hope it is clear that the defense does not waive its right to controvert the facts contained in an affidavit by cross examination. I hope it is equally clear, in fairness to the defendants, to remind you again that if competent evidence in affidavit form is submitted by the Prosecution and is not met in some way by the Defense, it will be considered for what it is worth as competent evidence. But certainly we wish you to understand that the failure of any defense counsel to cross examine any witness does not in any way preclude him, when we reach the defense, from controverting the facts testified by the witness or contained in the affidavit of a witness which had been received in evidence.

I think this perhaps has been a very helpful discussion and I shall repeat, in the hope of making this as clear as possible, that if any of the Defense Counsel have any further questions I think this is sufficiently meritorious to warrant a full discussion of the subject. So feel perfectly free to propound any further inquiry along this line if you have the feeling that the position of the Tribunal has not been made clear to you.

DR. GIMLICH: Your Honor, I think I can say, on behalf of all Defense counsel, that we thank you for your instruction and I can only confirm that in the future we shall try to find the truth and adhere thereby to the formal rules of American trial procedure.

THE PRESIDENT: Thank you very much. The witness on the stand is available to counsel for the Defense for cross examination.

DR. LUBERT: Dr. Lammert, counsel for the Defendant Kuchne.

Mr. President, I have only two or three questions in regard to the affidavit of this witness, NI-9204, Exhibit 583.

THE PRESIDENT: Counsel, can you tell us in what English book that affidavit is found?

DR. LUBERT: It is in Document Book 20 on Page 56 of the English Book and on Page 74 of the German Book.

THE PRESIDENT: Thank you.

DR. LUMMERT: Let me say that the Defense, in many cases, will divide their work in cross examining the witness. I only have a few brief questions in connection with this affidavit. Two or three colleagues of mine will have another few questions with reference to a number of other affidavits. In order to clarify matters I should like to read a few lines into the record when putting my question to the witness. You will find these quotations in the English Document Book 56 approximately on the lower half of the page and I quote:

"In products asked for by the government I.G. had the policy to run a sound commercial risk wherever such a product might also be used for peace consumption and to erect the manufacturing plants on I.G.'s own expenses as far as no extraordinary costs due to war conditions were involved."

I shall skip one sentence and shall continue reading another sentence on Page 57 at the top of the English Document Book. I quote:

"As far as no peaceful consumption was to anticipated, I.G. declined any financing of plants and made agreements by which I.G. was to construct and build the plant at the expense of the government and was to operate such a governmental plant on terms practically affording I.G. no, or a very restricted, profit."

In order that my question be better understood, let me say one more thing. The Prosecution, in these proceedings, has submitted a number of contracts according to which the Reich promised to bear, and took over, the financing of certain installations. The contracts were mostly concluded during the war, but also partly already before the outbreak of the war, that is, before

September, 1939. At first a preliminary question:

CROSS EXAMINATION

BY DR. LUMMERT:

Q. Witness, does this cover, according to your memory, that such contracts were already concluded prior to the war?

A. Yes, and I have quoted such contracts which were concluded before the war.

Q. Very well. Witness, in your affidavit you stated that the I.G. declined such a financing as far as they could not anticipate a peacetime consumption. One could conclude therefrom that although they did not state it expressly, that the I.G. in those cases anticipated a wartime consumption or at least during the time before the war saw that it was necessary to prepare for war. That in all cases where the Reich took over the financing such an anticipation can either be interpreted as preparation for an aggressive war or defense of their country. And now let me put my question to you, Witness.

Do you know that the gentlemen who participated in drawing up the contracts of the I.G. during the preliminary negotiations and during the conclusion of such contracts were thinking of aggressive war?

A. No; I know of no such facts.

Q. Very well. Witness, I assume that you probably know a number of defendants of I.G. in the dock personally?

A. Yes.

Q. I also assume that you often had personal discussions with a number of these gentlemen and that you are able to make a judgment about their conception and about their attitude during the years prior to 1939, prior to the outbreak of war.

Let me at first ask you the following: About whom of the gentlemen present here of the I.G. can you make such a judgment from your own memory as a witness? I am in particular asking you on behalf of the Defendant Kushné whom I represent, but at the same time about other gentlemen whom come into question.

A. I believe I can give such a judgment about Dr. Kushne, Dr. Kugler, Dr. Buergin, Haeffliger and also Dr. Schnitzler and Dr. ter Meer.

Q. Very well. Witness, with regard to these gentlemen, can you affirm positively that in the case of these projects, apart from a business interest and a certain scientific interest, they were only thinking about the necessities of national defense but never about an aggressive war? Can you affirm that? Yes or no?

THE PRESIDENT: Just a moment. Now, this question which has been propounded to the witness is, in the opinion of the Tribunal, typical of a situation which we mentioned a while ago. That is undoubtedly competent evidence and the Defendants are entitled to the benefit of that evidence; but, in the opinion of the Tribunal, it is not examination. In other words, unless counsel for the Defense can point out something in the affidavit that we haven't seen, we are unable to say that that question is calculated to deny or disprove any statement made by this witness in the affidavit.

We could be mistaken about that and we certainly want to afford counsel an opportunity to correct us if we are mistaken. But if our assumption is correct, then the proper place for that evidence is in the Defense after the Prosecution has rested its case; and if you wish to make a timely application to have this witness produced to prove that fact in an orderly place, you will have it

in due course.

We are compelled, on the showing made and the state of the record as we now understand it, to sustain the objection upon the ground that it is not cross examination of the witness with respect to the affidavit now under inquiry. We are anxious that counsel for the Defense fully understand our view because it will be helpful in the future and if you have any doubt as to our ruling feel free to ask us about it.

DR. LUMMERT: Mr. President, let me clarify one more thing with regard to this point. I have listened very carefully to the explanation of the Tribunal before and I thought that my question to the witness was exactly within the frame of the admissible cross examination. My conception was the following:

The Prosecution in Count I of the indictment intends to prove that these defendants participated in the planning and waging of aggressive wars. Within the framework of their evidence to this point they submitted this affidavit before us. This is Affidavit NI 9204. From this affidavit we see that the I G was concluding contracts about new production installations which went beyond the peace time consumption, and, that they therefore declined to bear the costs of financing these installations because they were concerned with war consumption. If this document is to have any probative value for the prosecution, then this probative value for the prosecution, then this probative value can only be found if these contracts are evidence that Farben participated in the planning and waging of aggressive wars, and naturally aggressive war, because that is what Count I of the indictment refers to.

THE PRESIDENT: Counsel, pardon me for the interruption. We have no doubt whatever of the sincerity of counsel and that is why we have invited you to ask questions. Now here is the situation: I have personally glanced over this affidavit and I do not find in it anything to the effect that this witness has said that any defendant had any knowledge or was charged with any knowledge as to the purposes for which the production of Farben was being developed. If he had done that, your question would certainly be proper, but he has not expressed any such opinion and that precludes you from cross-examining him on the subject of his opinion with respect to either of these defendants. What he has done is to say that there were certain contracts of certain types. If you think that they were not contracts of that type or that he has incorrectly described the nature of the contract entered into, or the purpose or scope, you have the right to cross-examine him to show that the

statements he made were untrue and that the statements made in his affidavit are not correct, but you do not have the right to ask him for his personal opinion as to the state of mind as to either of these defendants, because he has expressed, as we understand it, no opinion with reference to the state of mind of any defendant and that is what takes it out of cross-examination.

Now counsel made some reference to the fact as to the theory of the first count of the indictment. Certainly you have a right to refute these things, but you cannot do it by anticipating your defense and I will repeat: when we come to hearing evidence of the defendants and you have competent proof as to the state of mind of the guilt, guilty purposes or innocent purposes of these defendants, the field is open to you then to make your proof. That is the reason for the ruling of the Tribunal.

DR. LUMBERT: If I understood the Tribunal correctly, I can put this affidavit to the witness at a later time when presenting my case in chief on behalf of the defense and put to him the same questions without having to fear that then the Prosecution will object by saying: "You should have examined the witness and you should have cross-examined the witness at the time."

THE PRESIDENT: You can't go that far. He has expressed no opinion with reference to the knowledge of the defendant. When you get into the defense if you want him as a witness to testify what his relationship was with the individual defendants you have named and what he knows as to their state of mind and their purposes and their motives, in what they did, then you can use him as your own witness and you can forget about this affidavit so far as the subject of that inquiry is concerned, because that is not embraced in this affidavit. In other words, here he has testified as to certain facts with reference to contracts. That is the matter you can now cross examine him about and that is only matter. I mean by that you can only cross examine him as to the contents of this affidavit. If he had expressed an opinion about the

guilty knowledge of these defendants, then you would have had the privilege of cross-examining him on that subject.

DR. LUMBERT: I believe I have understood completely and in that case I have no further questions to the witness. Let me put one more question to you for the purposes of clarification. The Prosecution, at the moment, is dealing with Count I, they only submitted it partly so far. I want to reassure myself that in case the Prosecution will use the same documents which they have now submitted in Count I, for Counts II and III, will then the defense have the right to call a witness to the same affidavit into cross examination at a later time? Am I right in assuming that.

THE PRESIDENT: When affidavits are in evidence they are in evidence for all purposes, and while the Prosecution may organize its proof as it relates to a certain count, the fundamental is, they are offering evidence to sustain the indictment, and the matter of whether the evidence relates presently to this count or that count is really a procedural matter which the Prosecution is pursuing in order to present its proof in a more orderly way. It appears to the Tribunal that since this affidavit is now in evidence for whatever it may be worth to sustain the theory of the Prosecution, you are now required to conduct your cross-examination as to the entire contents of the affidavit. You would not be warranted in calling the witness back subsequently to cross-examine him when we get into the discussion of another count. However, if the Prosecution offers additional affidavits subsequently, to establish a second or another count, that you could not now cross examine the witness about, because the affidavits are not yet in evidence, then you would have to be afforded an opportunity to cross-examine him with respect to all affidavits. In other words, so far as the Tribunal is concerned, we are not concerned as to whether this evidence relates to count 1, 3 or 5. That is purely a matter of the theory or practice of the prosecution in the way they have organized their case. The affidavit is before the Tribunal, the author of the affidavit is on the stand and

whatever cross-examination the defense has to make of this witness with respect to that affidavit, must be exercised now, or it will be passed.

DR. LUMMER: Mr. President, the defense would like to reserve the right to revert to this point again. I believe that the concept of the Tribunal is very important for all of my colleagues and we shall discuss this point together.

BY DR. HEINZELLER: (Counsel for Dr. Warster)

Q Witness, I have only a few brief questions with reference to your affidavit, NI-8152, which is exhibit 746 in Volume 40.

THE PRESIDENT: Pardon me, counsel, is that the German or English volume?

DR. HEINZELLER: As far as I know you will find that document in the German as well as in the English document book.

THE PRESIDENT: Thank you.

JUDGE MORRIS: May I have the exhibit number again?

DR. HEINZELLER: Exhibit 746, English document book page 49.
May I continue?

THE PRESIDENT: Yes, you may go ahead.

BY DR. HEINZELLER:

Q Under paragraph 2 of this affidavit, witness, you refer to a former statement you made regarding the stock-piling of aluminum, phosphorous and cyanides, which was undertaken by Farben before the war. Under paragraph 4 of this affidavit in the last sentence you say, and I quote: "With reference to all stocks of phosphorous and cyanides, we always sent the accounts to Anorgana Ludwigshafen, who in turn sent the accounts to the Wehrmacht." Did you know, witness, that the Anorgana Ludwigshafen was not created until 1940 or 1941, at any rate, not until sometime after the war began?

A I believe that is right. Yes, I remember.

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A I believe that is right. Yes, I remember.

Q. If you remember that, does this remembrance give you occasion to correct your statement of paragraph 2 that the stockpiling was undertaken before the war?

A. I did not write the text of this statement but I read it through carefully and I signed it under oath. When I signed it I probably did not notice the words "before the war" here. I don't have the old affidavit here, but I believe to remember that the affidavit says nothing about this stockpiling having been carried out before the war. It is only the heading that I recognize as incorrect.

Q. In that case you would confirm today that, according to your best knowledge and recollection, this stockpiling was only undertaken after the outbreak of the war.

A. I believe that is right. Before the beginning of the war, as far as I can remember, only very small quantities were stored. Besides, I have made a statement on the subject for the Prosecution which contains indirect statements about the storing of sodium cyanide, about production sales and also conclusions on stockpiles.

Q. I have the following question: Under paragraph 6, first sentence, you say that poison gases could be made from these chemicals?

A. Yes.

Q. Do you intend to say by that that only poison gases can be made from these chemicals, or is it correct that these chemicals can also be used for other normal chemical products and other articles of importance?

A. These chemicals are of great importance for other products, too. If you like, I shall mention some such uses.

Q. Is it true that a part of these stored products were later actually converted for such uses. Can you remember that?

A. I can remember that sodium cyanide from the stores at Duerkheimfurt was later used for Degussa. As far as I remember, those were deliveries to Roehm and Hees for plastics and for annealing metals,

which Dyerhansfurt a subsidiary of Degussa undertook.

Q. One last question. In the last sentence of paragraph 6 you mention that Dr. Wurster must know all details. I want to ask you about the extent of that statement you made. Does this statement also cover phosphor or only cyanide?

A. As far as Dr. Wurster is concerned it refers only to cyanides.

Q. Does your statement furthermore only refer to the fact of the stockpiling but also about the intentions of use?

A. I know only about the fact of stockpiling. Whether Dr. Wurster knew anything about the purpose I cannot say.

Q. Thank you, I have no further questions.

THE PRESIDENT: Just a moment please. I think the Tribunal might well observe that this was a perfectly legitimate and proper exercise of the function of the cross examination of the author of an affidavit. We call it to the attention of the associates of the counsel who conducted the cross examination as an example of a proper exercise of the function of cross examination.

BY DR. VON METZLER (For the defendant Paul Haeffliger):

Q. Witness, when did you enter the firm Griesheim Elektron which later became one of the foundation firms of Farben?

A. In June 1921.

Q. Did you work under Mr. Haeffliger in that firm?

A. Yes.

Q. Witness, how did your relationship to Mr. Haeffliger develop after Farben had been activated? Were you subordinate to him during the subsequent period?

A. Partially I was subordinate to him and partially not. That refers both to time. There were times when I was subordinate to him and other times when I was not but there were also times when I was partly subordinated to him for a certain part of my work and for another part of my work I was not subordinated to him.

Q. Witness, you sketched that yesterday with brief explanations when the Prosecutor asked you to whom you were subordinated. That is the reason I have put in this question to you because your answer in the form in which you gave it now is not yet clear to me. Could you tell me whether, starting from a certain period of time, you and Mr. Haefliger held positions of equal rank?

A. From about 1943, on, I actually was fully coordinated to Mr. Haefliger. In other fields of work I was fully coordinated to him earlier already.

Q. Do you remember that the head of Sales Combine Chemicals, Weber Andreas, was at a period of time speaking about four pillars upon which he relied.

A. Yes, he often did that.

Q. Which gentlemen did he mean?

A. He meant Mr. Haefliger, Mr. Horstmann, Mr. Borgwardt and me.

Q. Herr Borgwardt only entered the sales combine at a later date and I am referring to his predecessor?

A. Mr. Holm.

Q. Very well. And to what time did this statement of Weber Andreas refer?

A. That was at an earlier time. Mr. Horstmann died in 1941 and Mr. Holm, if I remember correctly, left the organization in 1938, but I am not quite certain about that at the moment.

Q. Witness, if you now recall this statement by Mr. Weber Andreas could you not conclude from that that at a substantially earlier period, before 1942, there was a coordination between you and Mr. Haefliger?

A. Yes, and I have already said that. There were certain fields of work where I represented Mr. Haefliger in inorganic chemistry and consequently there was a certain relationship of subordination.

Q. You said that you were coordinated with him in other spheres.

A. Yes.

Q. Witness, I am now turning to your affidavit, Exhibit 372, Document Book 14. English page 63, German page 89.

A. That is NL-7318.

Q. That is the affidavit NL-7318. I have a few questions to put to you in regard to the affidavit. Witness, on paragraph 4 of this affidavit you are discussing a constant contact of the heads of the sub-divisions of the sales combine with the technicians of Farben. In your second sentence you say that problems of sales possibilities, production increase and coordination of both, and other questions they were interested in, were discussed between the heads of these sub-divisions. I should be interested to hear from you whether you could very briefly tell the Tribunal, that is if you know it, upon what reason this close contact between technicians and merchants of the sub-divisions was based and I am particularly referring to this Sparte.

A. That is because the smooth sale of these products was of great importance for production. For example a product such as hydrochloric Acid which is produced in extremely large quantities and could not be stored, had to be sold quickly. Hydrochloric acid, for example, can be stored only in earthen or glass containers, and the amount that was produced could not be stored. Consequently it was necessary for production and sales to work closely together. There are many other such examples.

Q. Witness, I don't want to ask you about examples, but let me put this general question to you. In particular with regard to this Sparte, was it not true that the chemicals that were stored, — quite apart from the example you just mentioned, — were stored only in very small quantities and could not be collected as it was true in the case of other Sparten, for example in the case of Pharmaceuticals.

A. That is right for most of the products.

Q. And was this one of the reasons for the close contact between technicians and salesmen in your sphere?

A. Yes, but there are other reasons, too.

Q. Now, I should like to hear your opinion on the second sentence of the affidavit which I just read; namely, the discussion about the Problems of increase of production and these sales possibilities. I don't know what you wanted to express with that sentence. Did the salesmen actually exercise an influence on questions of increase of production, which is a technical question?

A. The salesmen merely acted in an advisory capacity here; they did not make decisions. The decisions about production increases were up to the technicians.

THE PRESIDENT: Have you a number of other questions?

DR. VON METZLER: Yes, Your Honor.

THE PRESIDENT: Then, under the circumstances, the Tribunal will rise for its morning recess.

(A recess was taken).

THE MARSHAL: The Tribunal is again in session.

BY DR. VON KETTLER:

Q Witness, before the recess we were discussing the discussion of problems between salesmen and technicians in the aerte. Did the answer, which you gave me to my question, that the salesmen did not have any decisive influence on the purely technical questions concerned with the building of new plants or the expansion of production, also refer to discussions in the chemicals committee which you mentioned under No. 8 in your affidavit -- 7318?

A I may say that my answer concerned the lower level. My answer concerned the head of the sales combine who was negotiating with the sub-committees such as Chlor-UKO, Sulfur-UKO. There in the chemicals committee, however, you had technicians, chemists and salesmen and their negotiations were carried on until at the end an agreement was reached. Technical questions of the expansion of productions were then transferred to the TEI which was only composed of technicians, and the last formal decision was made by the Vorstand who again consisted of technicians, salesmen and lawyers.

Q Since we are discussing production expansion, witness, do you remember from the time when you participated in the meetings of the chemicals committee, that problems were discussed about the plants which were to be built under the Four Year Plan, the so-called "Luflage" plants, which were built to fill the orders for the Four Year Plan?

A As far as I remember, these questions, generally for reasons of secrecy, were not discussed in the chemical committee. Now and again, perhaps, some such plant was discussed. I can't say that with certainty very well.

Q Witness, I now come to the discussions in the chemicals committee, which you deal with here in your affidavit, and since it belongs to this subject, I should at this same time like to discuss Exhibit 395, Volume 15, page 395 of the English, or page 151 of the German.

Q What document number?

A That is Document 9201. In this brief affidavit you speak of the copies of the minutes of the meetings which were sent to the various members. I have a question regarding the agenda of the meetings of the chemical committee. Do you remember, witness, who determined the agenda?

A Generally it was handled in the following way: The members of the chemical committee were asked to submit their points for discussion for the agenda. These points were then compiled within the Department and submitted to Weber-Andreas as the president. Later that was Schnitzler. Finally they were included by him in the agenda.

Q Now, was the agenda very extensive, were there a great many points as far as you can remember?

A Mostly very extensive agenda because Mr. Weber-Andreas was of the opinion that in order to deal with matters formally, points which had conventionally already been decided already would once more have to be included. But even those points which had to be discussed were mostly very extensive, which meant that we had a crowded agenda.

Q Witness, I now come back to your affidavit 7318, that is Book XIV, page 63 in the English, page 89 of the German. You say under No. 7 where you discussed the various meetings of the sub-committees, etc., in the last sentence, "and I should like to quote it. You say: "Since all the meetings had been held immediately following each other, the impressions of the persons reporting to the Vorstand were fresh, and it can be said that the entire Vorstand was well informed about all important matters." On this point, witness, I should like to ask you: Were you present at the meetings of the Vorstand?

A No, but I assisted Mr. Andreas frequently to prepare his lecture during such Vorstand meetings. That is why I know what went on there.

Q. But apparently that referred only to Weber-Andrease's Sparte?

A. I can't testify about anything else. Perhaps I can only testify about what Mr. Weber-Andrease or Mr. Von Schnitzler told me later.

Q. Did you read minutes of the Vorstand?

A. No, never.

Q. Never. Did Weber-Andrease report to the Vorstand points concerning the current business of the Sparte?

A. Mr. Weber-Andrease only reported about the most important things, never about current business.

Q. If I may put this to you, wasn't it his principle to report as little as possible to the Vorstand?

A. That is correct. He endeavored to report only what was really important.

Q. Witness, I now come to Point No. 12 of your affidavit. You speak of reports which, if I understand you correctly, were given to the Vorstand by Mr. Von Schnitzler. How do you know about these reports?

A. Herr von Schnitzler discussed what he intended to report to the Vorstand also within the circle of the so-called pillars—that is Haefliger, von Heyde and Haberlandt. Afterwards von Schnitzler mostly told us in detail what had happened.

Q. Witness, that refers to the time after 1943, doesn't it?

A. Yes, this period starts then, because Schnitzler only became head after 1943.

Q. Now tell me, during that period of time, was it not rather difficult for the various gentlemen to communicate because of the events, air raids, etc.?

A. Certainly. I can't tell you for certain whether Mr. Haefliger, who was in Berlin was present during each one of these discussions at that time. I think he was in Frankfurt again then. I am not quite sure.

Q. Witness, now I come to another affidavit. This is Exhibit 661, that is No. 9126, Book 36, page 133 in the English, page 185 in the German.

You speak of the destruction of files. If I might interpolate something here, I should like to explain to the Tribunal that I intend to ask only very brief questions because another defense counsel intends to discuss this subject in greater detail and the questions which my colleague will ask will refer to my client as well.

Now witness, under E, II-E, you speak about the files that were destroyed. That is page 196 in the German. I am afraid I don't have the English page. You speak of the files which were destroyed in Haefflinger's office. Witness, how did you learn what files were destroyed?

A. As it is stated in my affidavit, this list was compiled by the Frankfurt secretary of Mr. Haefflinger, Miss Berta Dubuss, Mr. Haefflinger, I think, and I don't know whether he was asked about that, may have been asked what files were to be destroyed. At least, I was always asked by her. She then proceeded to compile the list. I think that she selected these documents and took them over to be burned.

Q. Then if I understand you correctly, you cannot make any definite statement about the contents of these files which were destroyed?

A. Generally, I cannot do that. I mentioned yesterday that altogether 15 tons of files were destroyed and it certainly was quite impossible for me to look through all these files.

Q. Then you cannot say what orders Haefflinger gave about the destruction of files, or if he gave any orders at all?

A. Haefflinger as far as I know gave no instructions about the destruction of files. These instructions were given by me as the Plenipotentiary for matters of intelligence.

for matters of intelligence.

Q. Witness, I now come to another affidavit. That is Exhibit 746, Volume 40, English page 49, German page 64. Witness, in connection with the examination of the previous defense counsel, I should like to state once more that your statement under No. 3 in this affidavit where you speak of stock-piling of aluminum, refers to the time after the war, is that right?

A. The matters of the International Aluminum Association probably referred to the period prior to the war. I repeatedly pointed out, though, that aluminum was not my sphere of work and that therefore I knew only little about it. I might well be wrong in these matters.

Q. Do you know then who really was in charge of the sale of this aluminum?

A. Yes, it was the metal company who had a participation in our plant and who transferred their sales manager to us. The sales went always over the metal company. That was done in collaboration with the Aluminum Association.

Q. Well, the metal company, (Metallgesellschaft,) to make it clear to the Tribunal, is a firm which did not belong to Farben, am I right?

A. Yes.

Q. And this firm was in charge of the aluminum?

A. Yes.

Q. Which was produced in the plant at Bitterfeld?

A. Yes.

Q. The stockpiling was in whose hands then?

A. As far as I can see, it was in the hands of the metal company.

Q. I see. Then witness, I should like to ask you about No. 3 of your affidavit, where you express the assumption that Mr. Haefliger must know more than you about this subject?

A. Yes, because it concerned Mr. Haeffliger's sphere of work.

Q. Well, but if the sale was in the hands of the metal company, how was Mr. Haeffliger supposed to be informed about all the details of these things?

A. In the final analysis, I was only asked who in Farben would know about this and I could only state that if somebody knows something about that in Farben, it is the responsibility of Mr. Haeffliger of Mr. Meyer & Kister. These are the gentlemen who know about this matter. If they don't know about it, no one in Farben knows about it except perhaps the technicians.

Q. Then that is merely an assumption on your part if I understand you correctly?

A. Yes.

Q. I have no further questions.

BY DR. VON KELLER:

Q. Dr. von Keller, counsel for the defendant von Schnitzler.

Witness, in what year did Mr. von Schnitzler assume the chairmanship of the sales combine chemicals?

A. I would assume that it was about the turn of the year 1943-44. I would assume that formally it was 1944, but the decision was probably made in 1943.

Q. As far as I am informed, it was the 1st of January, 1944. Did Mr. von Schnitzler at the same time take over the presidency of the Chemical Committee?

A. Yes, practically speaking, it was at the same time.

Q. From what branch of the I. G. Farben sphere does Mr. von Schnitzler originate?

A. From the dye-stuff business.

Q. Is it therefore correct for me to say that from the very beginning, he was not an expert in the field of chemicals?

A. That is right.

Q. Is it true that Mr. von Schnitzler first had to get used to this field?

A. That is true.

Q. In order to do that, was he in need of support and advice of the gentlemen who were skilled in that sphere from a technical and sales point of view?

A. That is correct.

Q. Was the period of time from the beginning of 1944 sufficient so that he could gain a basic and expert knowledge in this field?

A. At any rate, it was very short. Mr. von Schnitzler worked very hard at it.

Q. Were the journeys which Mr. Schnitzler made to the various chemical plants, and I am now referring to Leverkusen, Troisdorf, Bitterfeld--suffice it for him to order to become acquainted with these matters or did he intend these journeys to be the first contact with this new field of work?

A. They were to be the first contact.

Q. Is it not true that especially in 1943 and 1944 so many renovations as to production technique, so many technical difficulties were added to this enormous field of work, that a proper and basic acquaintance with these problems was very difficult and almost impossible to achieve?

A. That is correct.

Q. Therefore, can we say that Herr von Schnitzler alone responsibly led the sales combine chemical and the "Chemie"?

A. No, and that was not the sense of the meeting that he was responsible.

Q. Under these circumstances, then, one cannot say that he was leading this party according to the fuhrer principles?

A. No, Mr. von Schnitzler tried to collaborate with his colleagues but at any rate Mr. von Schnitzler was a leading personality and he had the function of a leader.

Q. In other words, the word "fuhrer principle," as you stated it in your affidavit 7318, Exhibit No. 370, Document Book 14, English page 63, German page 89, this word "fuhrer principle" does not refer to the methods which Mr. von Schnitzler's methods?

A. No, not to Mr. von Schnitzler's methods.

Q. Let me embark upon a new point which concerns the field of dye stuffs. Which boards bore the main burden of the work of dye stuffs? The specialists of the dye stuffs field were assembled in this dye stuffs committee, is that true?

A. Yes.

Q. Would it be correct to assert in here, too that Mr. von Schnitzler was heading this dye stuffs business from the point of view of fuhrer principle? In other words, were the methods of Mr. von Schnitzler carried out according to the fuhrer principle which to us smacks very much of nazism?

A. I did not attend the meetings of the dye stuff committee. Perhaps I was called in to be consulted on a certain point but I cannot give a competent judgment on the subject. But I should like to say that if I used the expression "fuhrer principle," I didn't mean to give it any ominous taste.

Q. Now during the years 1943 to 1944, the technical development as well as the increasing influence of the war limited the significance of these boards, is that true?

Let me put the question more specifically. Is it not true that communications, transport, etc. became increasingly more difficult? Is it not true that production and storage facilities became more and more difficult to survey so that one often had to resort to improvisations?

A. That is true. It went to the extent that at times I had to move to Bitterfeld to be available there because communications had become so bad.

Q. In that case, the individual gentlemen partly had to make decisions on their own without being able to consult the entire body or without being able to await the decision of the president of such a body?

A. Since immediate decisions were necessary, yes.

Q. Then, your statement in that same affidavit to the effect that all the gentlemen were well informed about all important matters has to be understood with this substantial limitation?

A. If an immediate decision was impossible because of lack of communication, then of course all the gentlemen of the Vorstand could

not be informed but I assume that even then they were informed subsequently.

Q. One concluding question, witness: You just made a statement to my predecessor regarding the destruction of files. You said that you could not give any definite information as to the content of these files, on the basis of your own knowledge. Does this statement also refer to files which fall within the sphere or jurisdiction of Mr. von Schnitzler?

A. Yes.

Q. Thank you. No further questions.

BY MR. LINGENBERG:

Q. Dr. Lingenberg: (counsel for the defendant Dr. Ilgner.)

Witness, I have a few questions to put to you which refer to the repeatedly mentioned document NI-7318 bearing the Exhibit No. 371. The document — and I repeat — can be found in the English Document Book 14, page 63 and in the German document book page 89. In this affidavit, witness, you deal in paragraph 10 and 11 with the personality of my client Dr. Ilgner. Amongst other matters, you discuss the personal plans of Dr. Ilgner. Were you personally so close to Dr. Ilgner as to learn about his personal plans?

A. No.

Q. In that case, may I ask you from where you derive your knowledge?

A. If I spoke about this, I expressly said, "in the opinion of some people." Of course, we discussed such things and this was the content of conversations with various gentlemen including gentlemen who know him well.

Q. In that case, one could well say that your knowledge originates from hearsay?

A. Yes, that is what I said.

Q. You go on to discuss a case where according to your opinion Dr. Ilgner had reversed a decision made by the commercial and technical committees with reference to a matter concerning Rumania.

A. I remember that the decision of the Commercial Committee was reversed. I don't believe I said that a decision of the Technical Committee was reversed.

Q. You said it, but it isn't very important for me. We can pass over this point. If I understood your affidavit correctly, witness, this decision was to have been reversed upon the objection of Dr. Ilgner in the Vorstand.

A. Yes.

Q. Do you remember and is it true that in that case we were concerned with the technical industrial aid which was extended by Farben to the Rumanian group Nica-Nitrogen in the field of Alumina?

A. Yes.

Q. Do you know, Mr. von Heider, that this project was discussed in the so-called Southeastern Committee?

A. Yes.

Q. Is it true that in the Vorstand Farben, Dr. Kuehne was the technical responsible man for alumina?

A. Yes.

Q. Do you know that Dr. Kuehne, for purposes of examining, the technical possibilities of this project, carried out a very detailed inspection in Rumania?

A. Yes.

Q. Do you furthermore know that Dr. Kuehne reported on these matters immediately afterwards on the occasion of a meeting of the Vorstand at the end of the year 1943?

A. I can't say because I was not present at the Vorstand meetings and I don't remember it at the moment.

Q. Very well, Now witness, do you furthermore know that Dr.

Kuehne stationed as technical assistant at Rumania temporarily in order to examine this entire problem?

A. Yes.

Q. In your affidavit, witness, you go on to discuss that in connection with this project you were concerned with Bauxites of a low iron content?

A. Yes.

Q. Now let me inform the Tribunal or rather let me recall to the memory of the Tribunal in that connection--and this is a matter which was already discussed in the document books--that this bauxite which I was just discussing represents a raw material from which, after a certain type of procedure, so-called alumina can be gained which in turn is an intermediate product for the production of aluminum. For those purposes, Mr. von Heider, I should like to put to you the following question as to whether you knew that Dr. Kuehne with his assistants in Leverkusen had developed a process which was particularly suited for the Rumanian bauxites which were very difficult to treat?

A. Yes.

Q Now witness, beyond that, did you know that Farben, upon request of this Rumanian group nicanitrogen, entered into negotiation with another French group?

A Yes.

Q In order to summarize now these preliminary questions, do you know that the Cooperation of these three groups had for their sole purpose, the developing of the most ideal process for special Rumanian purposes?

A Yes.

Q Do you know that I.G., even in cases of finances, was assisting this Rumanian group?

A Yes.

Q Now, Dr. von Heider, do you perhaps also know that the Rumanian group was to a great extent interested in employing the technical and industrial aid of Farben quite generally?

A Yes.

Q Don't you find that all of this represents a very generous procedure on the part of Farben?

A Yes. I would like to say something on that point.

Q Very well.

A Farben did not have one process, but as I remember it, three, and as to the question first of all, whether these processes were worked out technically in such a way that a license could be issued there, opinion in I.G. was not divided, but I think it is quite united that it could not be done.

I believe Dr. Kuchne, at the beginning, at least, held this point of view, and if I said it was a process that was not suitable for these alumina then so far as I remember that refers to an earlier state of negotiations, and the process finally was chosen, which was later developed through

combining several other processes. I also know that Dr. Kuchne supported Dr. Ilgner in this policy. And I know that Dr. Kuchne was the first expert in this field, and I should like to add that the technicians of Dr. Kuchne, and Leverkusen, did not always share his opinion in these matters, and I believe it is not essential in my opinion, what the reason was why the process was at first opposed, whether it was that the alumina was not suitable or that the process had not been worked out.

I merely mentioned that in my interrogation, as evidence of the fact that the resolutions were reversed, if the commercial committee when they came to the Vorstand, and I know that was true, because I had a discussion on the subject with Dr. Ilgner, I believe in the Southeast European Committee as well as in the Commercial Committee, and also because I asked Dr. Weber-Andrae to recall me from the Commercial Committee when a contrary resolution was adopted.

Q Mr. Von Heider, then let me once more put to you . that you just now told me yourself that Dr. Kuchne was the expert in alumina?

A Yes.

Q And that he, in the final analysis, had taken over this project and prepared it to a certain degree; in order to refer to your affidavit, let me clarify my following questions by summarizing first of all, do you want to deny that Farben, in engaging in this project, was led by well considered opinions and are you going to maintain the impression as is created by your affidavit, that the leadership of Farben, that is to say, the body which is assembled in this courtroom, was only subject to the eloquence of Dr. Ilgner with reference to your positive opinion on that

Rumanian project.

A I certainly do not mean to say that. I was simply asked about the authority of the Commercial Committee.

Q That is sufficient doctor. I only have one brief, concluding question.

Witness, in one passage of your affidavit, you stated that it was the ambition of Dr. Ilgner at all times to see to it that Farbenn and the A.G. Dynamit-Bratislava would gain participation in southeastern Europe. Can you name some of these participations which were gained by Farbenn?

A I said it was the policy; whether Farbenn reached that decision is another question. For example, Dr. Ilgner in this Nitrogen Association was in favor of participation.

Q Let me repeat once more specifically, do you actually know of the gaining of any such shares of participation?

A Not at the moment.

DR. LINGENBERG: Mr. President, no further questions.

CROSS EXAMINATION

BY DR. HENZE Counsel for the Defendant Dr. Kugler:

Q Mr. von Heider you submitted a curriculum vitae about my defendant, which is on page 143 of the German document book, and on page 123 of the English document book.

THE PRESIDENT: Which book, please, counsel?

DR. HENZE: Book 11, page 123, Mr. President.

BY DR. HENZE:

Q There are a number of inaccuracies, and I should like to correct them briefly. My client became "prokurist" at Farbenn when he was relatively young, and I want to ask you whether that already took place in the year 1924?

A I don't think that is what it says here; it says that he became prokurist of Meister, Lucius & Bruening in

1924. My knowledge comes from a report which Dr. Kugler gave me.

Q There must be a misunderstanding, Mr. von Heider, I believe. Let me ask you, are you confusing that with the fact that in the year of 1924, my client took over the "I.G. and Conventions Department" of this firm.

A I cannot say anything about this subject at the moment. I talked that over and passed it on.

Q Well, in that case, let's leave this point. Under 18 b of your affidavit, you are saying that my client was also the head of the sales combine for dye stuffs for the countries Greece, Bulgaria and Turkey. Is it true, Mr. von Heider, that he did that only after the death of Director Weibel, in February of 1945?

A For those countries, it is true, and I beg your pardon. That is a mistake on my part. I missed that when I read the affidavit.

Q A similar mistake, Mr. von Heider was made by you once more under 18-c. Do you know that my client only became Vice Chairman of the Dyestuffs Committee after the death of Director Weibel?

A I believe it says somewhere that he had been Second Vice Chairman previously.

Q That is true. He had been the second Vice Chairman before, but this, Mr. von Heider, was all I wanted to ask you as to this curriculum vitae,

Let me now, witness, pass on to your affidavit which deals with the destruction of files.

Mr. President, that you will find in Volume 36 on page 131 of the English document book.

In this affidavit, Mr. von Heider, you say that you were

the Plenipotentiary for matters of counter-intelligence of
the administration building at Frankfurt on the Main. From
whom did you receive your orders concerning this activity?

A I was under the Abwehr, Counter Intelligence office, which was the Military agency. I was later under the jurisdiction of the RSHA, the Reich Security Main Office.

Q Could the administrative and the leadership of the firm give you any orders and interfere in your tasks?

A No. According to instructions, I merely had to inform the manager of the plant, but it was up to me to carry out the measures. I believe that is right. I do not have it in my memory completely.

Q Witness, your affidavit refers to events in the Administration Main Building of Frankfurt?

A Yes.

Q Is it true that the Sales Combine Chemicals (The Sales Combine Dyestuffs) the Central Accounting department, other central staff offices, and also the Tea Bureau were in that building?

A Yes.

Q Apart from the Sales Combine Pharmaceuticals, all departments were represented in the main administration of a commercial and administrative nature, who were dealing with production in Sparte II?

A Yes.

Q Mr. von Heider when you received this order for the destruction, were you clearly told what was to be destroyed?

A According to the official instructions, and I would assume that when I received the telephone calls, I was told again; to destroy what was of military use to the enemy. Or perhaps it said only what would be of use to the enemy.

Q Let me ask you to specify this a little more, by answering the following question: You said, "whatever may be of use to the enemy". Did you understand the order to mean that those files were to be destroyed which were to be of use to the enemy for the conclusion of the war?

A For waging the war, that is what I understand. The war was still going on at that time.

Q My question was, are we concerned with the material which would be of use to the enemy in order to end the war victoriously?

A Yes.

Q Was it your impression, Mr. von Heider, that the destruction of files was also meant, which were important for investigations on the part of the occupational powers after the conclusion of the war?

A Certainly not, and I do not think any of us ever considered that there would be such an investigation. We merely thought of what would be of use to the enemy in waging war. All of my specific orders were made from this point of view.

Q Herr von Heider, you passed on these directives in this very manner, without any addition?

A I think so; yes.

Q Did any other agency in the building with whom you discussed this matter, give you any additional directives?

A No. None could give me instructions, but I know that Dr. Struss said to me at the time that he had already discussed the subject with Dr. Ter Meer and that Dr. Ter Meer had expressed the wish that as little be destroyed as possible.

THE PRESIDENT: How nearly are you through, counsel?

DR. HENZEL: I beg your pardon, your Honor?

THE PRESIDENT: How near are you through with your inquiry?

DR. HENZEL: I hope, Mr. President, to conclude with a quarter of an hour.

THE PRESIDENT: Did the prosecution desire to say something?

MR. SPRECHER: If it please, your Honor, on the same point, sometimes it is difficult to arrange through administrative channels for transportation and things like that. If the examination could be concluded I understand from Dr. Boettcher that this is probably the last one. Is that correct?

DR. BOETTCHER: Yes.

MR. SPRECHER: We have transportation going to Frankfurt this afternoon with two other gentlemen, and we would like to be able to combine it.

THE PRESIDENT: There is no disposition on the part of the Tribunal to limit or deprive any proper cross-examination, but if counsel, for the defense can indicate whether any further examination of this witness is desired, we can determine whether it would be wise to go on and finish before our lunch.

DR. BOSTTCHER: Dr. Henzel will conclude all cross-examination with his questions.

THE PRESIDENT: Very well, then you may proceed.

DR. HENZEL: Herr President, I hope that I shall be able to limit myself to the time which I just now specified.

Q Witness, will you let me put a few questions to you regarding the selection of files which were to be destroyed? Is my impression correct, which I gained when studying your affidavit, that a number of files, -- a great number of files, -- were destroyed which actually did not have to be destroyed?

A In answer to that I can say that when we were destroying files, we also destroyed some files which were considered unimportant, and I may add that as I learned later, in the list of files which were reported destroyed, there were some files listed which had already been destroyed earlier.

I can give you a concrete example of that. The Directorate for Chemicals destroyed the files which I was asked about yesterday, "New Order in Europe" as early as the middle of 1944 at a time when we issued instructions to limit the amount of papers as much as possible in the building to reduce the danger of fire in the case of an air raid with incendiary bombs.

Q Thank you. I gained the impression that the destruction, according to the estimate of these people who dealt with the files, was carried out in the following manner? But let me first ask you whether

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the situations in the first quarter of 1945, were in such turmoil that they caused sometimes a senseless destruction of files, which ordinarily would not have had to be destroyed according to the order.

A I can say that so far as I remember concerning the files which were important for waging war, it was made quite clear in my instructions, to the many inquiries which were made of me; and I always repeated those instructions, but that to was left up to the department heads to decide what fell into this category and what did not. It is true that the burning of the files was done very hastily, and was repeatedly interrupted by air raids, and it lasted a week to 10 days.

Q Thank you, witness. May I also consider the fact that in view of what you have just said, that within the sphere of the sales combine chemicals B upon your own instructions, and I quote: "Copies of the sales documents to firms all over the world, were to be destroyed in order that they not fall into the hands of the enemy"?

A I believe that the translation is not 100 per cent right here. It should not be sales documents, but sales agreements, carbon copies of International Trade Agreements. When I was asked yesterday, I did not correct this, because I considered it unimportant.

MR. SPRECHER: Your Honor, it is correct; it is all right in the English; it is only wrong in the German.

BY DR. HENZEL:

Q Herr von Heider, did you convince yourself personally what actually was destroyed in the various departments, and what was being destroyed in the other departments after your instructions had been given?

A No, I have said repeatedly that I was not technically able to do that. I was often asked in individual cases, for average decisions.

Q You left the execution to the discretion of the individual departmental heads?

A Yes. That is how I arranged it from the very beginning.

Q Would it not have been necessary to establish close contacts between you and department heads if you wanted to see to it that certain files should be destroyed in the Haus-Grusneburg?

A Yes, but as I said, that was done rather hastily, and as I say, many errors were made definitely, but the majority of the things were destroyed by the department heads.

Q Witness in that case this operation, and pardon the expression was rather like the work of amateurs?

A Yes, I admit it. That depended on the department chief.

Q Let me briefly point to a number of matters. Under A in your report, you say that the office of the Central Committee had destroyed, records of the Commercial Committee; were these files preserved in other departments?

A I believe that copies of virtually all of these minutes were preserved because the judgment of what was to be destroyed was made by different persons. The fact is, that in other departments, copies of these minutes have been found.

Q Do you mean to say, witness, that quite apart from the extent of this operation, even today there are files available about important business transactions?

A In the majority of cases, yes, but many things which were stamped "top secret" and many secret things are no longer in existence today, but the files concerning the normal, the real Farben business, were preserved.

Q If I understand you correctly, all the stamped "top secret" matters were not matters concerning real Farben business, were they?

A Not sales business at any rate.

Q Were any files destroyed later, Mr. von Heider?

A After the occupation by the Americans, no. You know, we wanted to preserve a number of documents which we considered important for the war; they were sent to be evacuated to Sackenbach, near Lohr on the Main river. Bussman, went with them. Mr. Bussman destroyed some files there,

but only up to the time when the town was occupied, or rather he went on to another place and he destroyed some documents, up to the day when the Americans arrived in the second town.

Q Witness, will you please answer the following questions? Who was in the administrative building after the occupation? Was it left to Farben or was it taken over by the occupational powers for their own purposes?

A No, I was in Bad Nauheim at the time, but according to what I heard the men of Farben were eliminated completely; the occupational authorities took charge and the so-called displaced persons, people who had been forcibly brought to Germany to work, temporarily quartered there, and these people destroyed many documents, and when the building was cleared, more documents were lost because we were hurried and were told to take only the most important things with us.

Q Witness, is it correct that you and a number of your colleagues among others also my client, have tried to stop this continuing destruction?

A Yes, that is correct. And Mr. Kochler, in addition to your client was also very active in this.

Q Is it true that one of these three gentlemen approached the city commandant, and asked him to see to it that this material should not be destroyed?

A I was told that later. I was not present myself. I told you I was temporarily not present.

Q In this connection let me put the following questions. If, on the part of the leading gentlemen of Farben the destruction had been desired, in order to remove files, then it certainly would have hardly been expedient to take the steps they did; don't you agree with me that it would have been far more expedient at that time of difficulties and confusion, to remove secretly all other files which had yet to be removed.

A I can say that all of the leading men to whom I talked at the time, issued instructions that no document were to be destroyed but that

everything should be given to the occupation authorities that they wanted.

Q May I ask you is it not a sign of a good conscience, if, during such a period, one endeavored to stop a further destruction of files by outsiders, instead of quickly disposing of all uncomfortable files and giving them to the DP's in order that they may destroy them?

MR. SPRECHER: Your Honor, I think that is argument to the Tribunal, and the witness is not in a position to make that discussion about good conscience.

THE PRESIDENT: That is an inference that might be drawn, but it would be for the Tribunal to draw it, and not for the witness. I think that objection should be sustained.

DR. HENZEL: I have no further questions, Mr. President.

THE PRESIDENT: It is late for the hour for lunch, but the Tribunal would not want me to recess without expressing its very deep appreciation for the hearty cooperation of all counsel for the defense who have participated in this cross-examination. It has been very fine as evidenced by the fact that you have not even afforded opportunity to counsel for the prosecution to make an objection.

Thank you very much. We will now arise until two o'clock.

(Court in recess until two o'clock.)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Before we resume the trial proper the Tribunal would like to announce that we have agreed to release the use of the Courtroom for next Friday, one week from today, October 10th to another Tribunal and we will have no session on that day. However, we think that day should be made up by the use of a Monday. In so far as the Tribunal is concerned that may be this coming Monday or a week from Monday. If the Bar is ready to speak on it we would be very happy to have you indicate your preference and if there's no agreement we can have the understanding now. On the other hand, if you do prefer to consult about it you may do so and advise us either at the recess this afternoon or at the time of adjournment. We think only in fairness to you the matter should be determined so that you will know how to make your plans.

DR. VON ROSPATT: I think I can state on behalf of the other defense counsel that we would prefer if we would do that from Monday in eight days, which will be the 13th.

MR. SPRECHER: We can joint in that.

THE PRESIDENT: Then, if we understand your desires we will not be in session this coming Monday; neither will we be in session on Friday, October 10th but we will be in session on the Monday following that. Is that the understanding, now?

DR. VON ROSPATT: Yes.

THE PRESIDENT: Very well, our adjournments will automatically take care of that and the prosecution may now proceed with the presentation of its evidence.

MR. SPRECHER: Your Honors, is available the memorandum of 23 September in which we list various witnesses -- the various affiants?

THE PRESIDENT: The Chamber does not have them here. We have them in our offices.

MR. SPRECHER: Well, I think the arrangement will be fairly clear without it. Dr. Boettcher on behalf of all defense counsel came to me



during recess to state he was, in view of the clarification concerning the cross examination this morning — he was authorized on behalf of the defense to state that the defense would forego any cross examination of the following four gentlemen as of the present moment and the prosecution will state that with respect to the same four gentlemen, in view of that, it has no desire to call them for further cross examination during the case in chief, at least, so far as we may now know it, and certainly not concerning these affidavits that have been so far given. These four gentlemen are Ernst Engelbertz, who had previously been announced and you may consider that announcement as invalid, Dr. Helmut Hanse, Max Kuegler and Walter Lenz.

The prosecution has also stated to Dr. Boettcher its position concerning three other persons — we believe clearly Kurt Krueger should be deferred until at least the presentation of the principal evidence concerning Count II. He will be involved considerably and we believe that with respect to affiants Alfred Lenz and Werner Mansfeld, if there is any question concerning them, whether it be cross examination or cross interrogation — or whatever it may be, we feel that it should be deferred until Count III since it bears on questions of forced labor.

Although Dr. Boettcher had not discussed these particular three gentlemen over with his associates, he indicated that it is his own personal opinion that it would be reasonable. Thank you, very much.

THE PRESIDENT: As far as the Tribunal is concerned we shall not bind either the prosecution or the defense to commitments of this character. If it develops that the prosecution does desire to call a witness that it has indicated it will not call, on timely notice we will permit that to be done and likewise, if it should develop that counsel for the defendants may subsequently desire to cross examine a witness with respect to which they have indicated they do not presently expect to cross examine, we shall permit that likewise. It was only our idea that in orderly procedure it would facilitate matters if we could have a tentative understanding about these subjects which, however, in other

words, need not be binding if conditions should arise to cause you to change your mind.

BY MISS BELLE MYER:

May it please the Tribunal, the documents which the prosecution will start offering this afternoon are contained in Document Books 17 and 44 through 49. These documents relate primarily to Paragraph 53 through 66 of the indictment which charges in substance that in preparation for and in the actual waging of aggressive war Farben carried on propaganda, intelligence and espionage activities.

Document Book 17 contains a number of affidavits by the defendant Max Ilgner. Some of these have been offered in evidence already but I would like at the outset to state that they will be referred to subsequently a number of times to complete the offering of all of the affidavits in this book.

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The Prosecution offers Document NI-6700 as its Exhibit No. 771. This is an affidavit of Max Ilgner of April 14, 1947, concerning the validity of statements made by him to the American authorities after the German surrender and indicating the circumstances under which these statements were made. It appears at Page 1 of the English Document Book and Page 1 of the German.

Document NI-6544 has already been offered as the Prosecution's Exhibit 377. The Prosecution offers Document NI-6702 as its Exhibit 772. This is an affidavit of the Defendant Ilgner of April 25, 1947, concerning the propaganda activities of I.G. Farben, and it appears at Page 23 of the English Document Book and Page 42 of the German.

The next Document NI-6701 is offered as the Prosecution's Exhibit 773. It's an affidavit of Max Ilgner of April 14, 1947, concerning a trip taken by him to Latin America in 1935, and it contains excerpts from the report on Latin America based on that trip. This document is at Page 33 of the English Book, Page 64 of the German.

Document No. NI-6713 is already in evidence as the Prosecution's Exhibit 512.

Document No. NI-6649 was offered in evidence, Your Honor, but it was only marked for identification because of the fact a Dr. Bachem of the Defense thought that there was a variance between the English and German documents. However, he has consulted with Mr. Hoffmann of the Prosecution, and it has developed that the variance was between the interpretation and the German document. And I believe that that has been settled in a manner satisfactory to the Defense.

The Prosecution offers Document NI-6649 as its Exhibit

THE PRESIDENT: Pardon me, Counsel. Was the document identified as No. 339 when it...

MRS. MAYER: Yes, Your Honor.

THE PRESIDENT: Thank you.

MRS. MAYER: The last affidavit, NI-6699, has already been offered as Exhibit 297. The first book is Document Book 44. The Prosecution offers Document NI-10933 as its Exhibit 774. This document appears at Page 1 of Book 44 in both the English and in the German. This document contains excerpts from The Voice of Destruction, which was a book published in 1940, by Hermann Rauschning, a close confidant of and advisor to Hitler during the early years of the Nazi Regime. These excerpts are offered for the purpose of showing that Hitler considered propaganda to be one of his chief weapons in the preparation for and waging of aggressive war.

At Page 3 of this Document Book, the last sentence on the page, Hitler says: "Our strategy, Vorster, is to destroy the enemy from within, to conquer him through himself." According to Hitler the real war was, as these excerpts show, to have been waged and won long before the actual firing of guns. I should like to quote the last paragraph of these excerpts at Page 5 of the English, Page 3 of the German Book. In this paragraph Hitler is quoted as saying:

"I shall never start a war without the certainty that a demoralized enemy will succumb to the first stroke of a single gigantic attack. When the enemy is demoralized from within, when he stands on the brink of revolution, when social unrest threatens-that is the right moment. A single blow must destroy him. Aerial attacks, stupendous in their mass effect, surprise, terror, sabotage, assassination from within, the murder of leading men,

overwhelming attacks on all weak points in the enemy's defense, sudden attacks, all in the same second, without regard for reserves or losses: that is the war of the future. A gigantic, all-destroying blow. I do not consider consequences; I think only of this one thing."

The Prosecution offers Document No. MI-10554 as its Exhibit 775. It appears at Page 6 of the English Document Book, Page 4 of the German. This document represents extracts from a report titled "National Socialism Basic Principles, Their Application By The Nazi Party's Foreign Organization, And The Use Of Germans Abroad For Nat. Aims." This report was reported to the United States Department of State, and was issued in 1943. This document shows that the Ausland's Organization or the Foreign Organization of the Nazi Party was in charge of carrying on propaganda activities for the German Government. The purpose of the Ausland's Organization, as set forth in this document, was to regiment all Germans and German institutions abroad "to establish National Socialist racial communities as the basis for unification, to prevent the assimilation of Germans, to insure their loyalty to Nazi Germany, and to carry on Fifth Column activities abroad."

The Prosecution refers to Document No. MI-4833, which is already in evidence, as the Prosecution's Exhibit 26. It appears at Page 14 of the English Book, Page 11 of the German. This is...

DR. RESSLER: Dr. Henzf. Mr. President, I am speaking on behalf of my colleague Dr. Aschenauer who is representing the Defendant Dr. Gattineau. When the Prosecution offered this document for the first time, it submitted as Exhibit 27 a withdrawal of that document, which was attacked by Dr. Gattineau. I think it is proper to point that out in

this connection.

MRS. LAYEN: Well, Your Honors, this affidavit is already in evidence, and it is accompanied by the statement of Gattineau which the Defense refers to.

THE PRESIDENT: There's nothing presently before the Tribunal so far as that is concerned. As remarked, it is in evidence, as we understand the record. And Counsel is just merely calling our attention to it that it may be considered in association with the other group of exhibits, where it appears in the book now being considered.

You may proceed.

MRS. LAYEN: This affidavit is referred to at this time for the purpose of showing that the aims of the Auslands Organization were not to be accompanied by its own agents, but by so-called economic agents. On this point I should like to quote part of Page 15 of the English Book, at the top and towards the bottom of Page 12 of the German. It reads:

"Upon Dr. Ilgner's initiative the Circle of Economy Leaders which cooperated closely with the Propaganda Ministry was established at the beginning of 1933. This Circle consisted of the representatives of industry i.e., among others, of von Winterfeld, Dr. Hahn and Western Heavy Industry, O.C. Fischer, Dr. Ilgner and myself of I.G. Farben. In conjunction with the Propaganda Ministry this organization had set for itself the task of abating events in Germany which were detrimental to the German reputation abroad, to attenuate them and to see to it that the situation in "New Germany" would appear in a more favorable light abroad. It also was the task of the Circle of the Economy Leaders to prevent awkward actions of the Ministry of Propaganda and to substitute for them more suitable ones. The Circle was well qualified for this

because its members knew the situation abroad well; they had good connections and were acquainted with the mentality of the respective countries. The development of events in Germany had greatly disturbed the export policy and the representatives of industry were now wishing to counteract this unfavorable development by appropriate propaganda. One tried to shift the attention from political questions to cultural ones. To the Propaganda Ministry this development was very desirable because in that manner the connections which industry had abroad could be used for its purposes. Besides, it was an advantage to use people not known to be paid propagandists. This propaganda activity was financed not by the Propaganda Ministry but by the firms of the respective sub-department chiefs. In that manner I handled Scandinavia and Dr. Max Ilgner North America. Among other things also trips by foreign newspapermen to Germany were financed. The negotiations with and the payment to the propagandist Ivy Lee also occurred during that period. Payments made for such purposes were accounted for by Dr. Ilgner with the Central-Financial Administration of I.G. and Generalrat Schultz was informed about them. Dr. Ilgner's office was used as the business office of the Circle of Economy Leaders. Other propaganda organizations which had been established upon Ilgner's initiative are the Association of Karl Schurz and the Central European Economic Council."

At the next page Gattineau then states that the Farben employees travelling abroad had to be cleared with the Auslands Organization. He says towards the center of the first paragraph:

"One of the prerequisites for issuance of this permission was that the gentlemen who were to depart had to report to the Auslands Organization abroad and in their activity to practice National Socialist principles. This "no-objection" certificate was issued only to people with a positive attitude toward National Socialism, that is, political opponents and non-Aryans could not obtain this permission. Whenever the travelers were functionaries who belonged to one of the party organizations, they had to report to the Auslands Organization also after their return had to give an account on the economic and political situation in the respective countries. It also frequently happened that employees in the I. G. management abroad were at the same time functioning on behalf of Auslands Organization. It goes without saying that all of the German representatives of I. G. were subject to I. G.'s control politically and otherwise. Auslands Organization desired, I. G. Farben consented to it, and after 1937 insisted that all the I. G. representatives abroad who were German participate in all activities and arrangements of Auslands Organization."

The Prosecution offers Document No. NI-7605 as its Exhibit 776. This document appears at page 18 of both the English and the German books. This is an affidavit of July 7, 1947, of Walter Jacobi, who was with I. G. Farben from 1924 to 1935. In the third paragraph of his affidavit Jacobi indicates that the U. S. boycott in 1933 was so serious that Hotz, who was an official of the American I. G. corporation, visited Germany to discuss it and to discuss the reaction in America to the activities of the Nazi.

Jacobi says he spoke to the Vorstand and Commercial Committee members stating that the boycott had to be stopped since it was detrimental to their business. "Some ineffectual attempts were made to dissuade the Nazi Government from such activities. At that time the withdrawal

of support by I. G. of the Nazi Party would have seriously weakened the Party's influence in Germany. I. G. Farben chose to deal with the problem by organizing a pro-German propaganda program abroad to overcome the hostility evoked by the violence of the Nazi treatment of the Jews and the general unpopularity of their program."

He then discusses the hiring of Ivy Loss, and at the bottom of page 19 of the English book, page 19 of the German, paragraph 5, he indicates that in his trips abroad, the defendant Ilgnor "utilized the opportunity to act as a good-will ambassador for Nazi Germany occasionally making speeches extolling the virtues of the Nazi program and its effect on the industrial life in Germany."

The Prosecution would like to refer now to Document No. NI-6702 which is in Document Book XVII and which has been offered in evidence as Exhibit 772.

THE PRESIDENT: There, may we inquire, is it found in the index?

MISS MAYER: In the index of Document Book XVIII it is the third document listed.

THE PRESIDENT: Oh, yes. Thank you.

MISS MAYER: It appears at page 23 of the English book, page 42 of the German. In the first part of his affidavit Mr. Ilgnor discusses the hiring of Ivy Lee, an American public relations expert, for the purpose as is set forth in paragraph 3 of combatting 1933 attacks made in the United States press against National Socialism and at the same time against German economy, including the I. G. Among other advice as is indicated by the defendant Ilgnor on the next page of the affidavit which Mr. Lee gave the I. G. Farben was to secure the writing and the placement of a series of articles by prominent personalities in Germany in German magazines or papers. He says in paragraph 4:

"The purpose of having these articles printed in Germany was that they could be reproduced in the American Press as articles for which permission for publication in Germany, too, had actually been obtained. The subjects did not touch on such obvious questions as the Jewish

question and were not at all about specifically political subjects. Mr. Lee handed over a list of various subjects, (about 20), which he had personally chosen and which he thought would interest the American public, such as: "Is Germany going over to Autarchy?"; "Will Germany pay her debts?"; "The condition of agriculture and industry in Germany".

Lee also gave Farben a mailing list of several thousands of American addresses, and at the next page of the affidavit the defendant Ilmer indicates that I. G. Farben financed the writing and publication of these articles and he also states that after discussion with the defendant Schmitz, they agreed to pay Lee a salary of ten thousand dollars a year.

The affidavit also corroborates the statements made by the defendant Gattinone of the circle of experts, and adds that at the meeting of the circle which took place about every two months, Goering usually first made a speech expounding his ideas and problems.

The attention of the Tribunal is respectfully directed to paragraph 21 of the affidavit which appears at the bottom of page 27 which shows the positions held by various sales managers and other important Farben representatives abroad in the Auslands Organizations and in other organizations of the Nazi Party.

I should like to point out that several of the representatives listed on page 28 and on the following pages were what they call Landesgruppenleiter or Ortsgruppenleiter in their particular countries, which means that they were area leaders for the Nazi Party.

At page 30 of the Affidavit the defendant indicates that another vehicle for propaganda activities was the Karl Schurz Association of which the defendant Ilmer became the president in 1933 upon the invitation of Schacht. Dr. Ilmer indicates that this Association held monthly meetings to which all American correspondents were invited, that Farben's Berlin Northwest 7 office was provided speedy translations of Reichstag speeches for these correspondents. He also indicates that

at the weekly meetings of the Karl Schurz Association a representative of the Foreign Office, one of the Propaganda Ministry and one of the International Associations Union were present.

The Prosecution offers Document No. NI-10929 as its Exhibit 777. I beg your pardon, Your Honors, I am back in Book XXXIV, 921. This document appears at page 21 of the English book and page 21 of the German. This document represents excerpts from Ivy Lee's testimony and the testimony of Burnham Carter. Carter before the House Committee on Un-American Activities in 1934. I ask the indulgence of the Court in quoting a few of these excerpts. The first is set forth at page 24 of the English book, at the bottom of page 23 of the German book. This appears in the middle of page 24:

"The Chairman: You say last year --" he meant 1933-- "that the field was broadened. Will you explain just how it was broadened?"

"Mr. Lee: Well, as I told you, the directors of this company told me they were very much concerned about the German-American relations and the criticisms that are being made here. They asked me to advise them as to what could be done to improve these relations and to do so continuously. And I made an arrangement to do that.

"The Chairman: What was the arrangement?"

"Mr. Lee: You mean financially?"

"The Chairman: Yes.

"Mr. Lee: \$25,000 a year, and I was to pay my own expenses.

.....

.....

"The Chairman: And with whom did you make your contract verbally?"

"Mr. Lee: A man named Max Ilgner. He is one of the managing directors of the I. G. "

Lee indicates subsequently, at Page 27, that the first payment made to him was made by the Defendant Schmidt personally.

At Page 32 of the English Book, center of Page 31 of the German Book, the testimony reads:

MR. DICKSTEIN. Have you received or has your firm received any propaganda literature from Germany at any time?

MR. LEE. Yes, sir.

MR. DICKSTEIN. And when was that?

MR. LEE. Oh, we have received - it is a question of what you call propaganda. We have received an immense amount of literature.

MR. DICKSTEIN. You do not know what that literature was and what it contained?

MR. LEE. We have received books and pamphlets and newspaper clippings and documents, world without end.

MR. DICKSTEIN. I assume someone in your office would go over them and see what they were?

MR. LEE. Yes, sir.

MR. DICKSTEIN. And then after you found out what they were, I assume you kept copies of them?

MR. LEE. In some cases, yes; and in some, no. A great many of them, of course, were in German, and I had what my son sent me. He said they were interesting and significant, and those I had translated or excerpts of them made.

MR. DICKSTEIN. And those you have in your office now, or at least some of them?

MR. LEE. So far as I know, it is all there. I don't know.

MR. DICKSTEIN. You received a shipment on the Bremen of quite a lot of what the committee calls propaganda. You may call it anything you like. That is our designation of it.

MR. LEE. Yes.

At the bottom of Page 37 of the English Book which is the top of Page 36 of the German, Mr. Dickstein says:

MR. DICKSTEIN. Can you show us one scrap of paper that came in here that had anything to do with the I.G.?

MR. LEE. Oh, yes. They issue a good deal of literature. But I do not want to beg the question. There is no question whatever that under their authority I have received an immense amount of material that come from official and unofficial sources.

MR. DICKSTEIN. Exactly. In other words, the material that was sent here by the I.G. was material spread-we would call it propaganda-by authority of the German Government. But the distinction that you make in your statement is, as I take it, that the German Government did not send it to you directly; that it was sent to you by the I. G.

MR. LEE. That is correct.

In Mr. Carter's testimony at Page 47 of the English Book, toward the center of the page, bottom of Page 43 of the German, the Chairman said to Mr. Carter:

THE CHAIRMAN. Now, in your advice or memorandum which you sent on the armament question to your client, you say this (reading): Germany does not want armament in itself. It is willing to destroy every weapon of war if other nations will do the same. If other nations, however, continue to refuse to disarm, the German Government is left with no choice except to demand an equality of armament. The German people are unwilling to believe that any people will deny them this right today.

That is a part of the advice which you gave. That is true, is it not?

MR. CARTER. Yes.

THE CHAIRMAN. When you sent that to your client it was with the hope, was it not, that a definitive statement would emanate along those lines? Is that true?

MR. CARTER. Yes.

THE CHAIRMAN. And a definitive statement to emanate from an official of the German Government?

MR. CARTER. Yes. The information contained in the statement was

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THE CHAIRMAN. And a definitive statement to emanate from an official of the German Government?

MR. CARTER. Yes. The information contained in the statement was

already published in German documents and in German speeches, but what we wanted them to do was to define that position.

THE CHAIRMAN: Now, in this advice which you gave to your client, you also advised that a definitive statement from a responsible official of the German Government emanate as follows:

Questions have been raised concerning the status of Germany's so-called "storm troops". These number about 2,500,000 men, between the ages of 18 and 60, physically well trained and disciplined, but not armed, not prepared for war, and organized only for the purpose of preventing for all time the return of the Communist peril. In view of the misunderstanding in regard to these civil forces, however, Germany is willing to permit an investigation into their character by such international arms control organization as is eventually established.

You made such a recommendation to your client?

MR. CARTER: Yes.

THE CHAIRMAN: That a responsible German official, if they are in harmony with your recommendation issue that statement?

MR. CARTER: Yes.

Reference is made to Document No. NI-1105 which was Prosecution's Exhibit 62 which is set forth at Page 53 of the English Book, Page 49 of the German. This was a press release issued by Wolff's Telegraph Office on October 30, 1933.

The previous documents have shown that the defendants Ilgner and Gattineau were, in 1933, members of the so-called Circle of Experts which advised the Propaganda Ministry. This document is offered to show the establishment of another organization, the so-called Publicity Board of the German Economy.

THE PRESIDENT: Would you give me the exhibit number of that document?

MISS MAYER: Yes. The exhibit number is 62.

THE PRESIDENT: Thank you.

MISS MAYER: The Publicity Board of the German Economy which, as I

was saying, also worked very closely with the Propaganda Ministry. The defendants Gattineau and Mann and von Schnitzler were appointed to this organization by the Propaganda Minister Funk.

The next document is NI-880 and it is offered as Exhibit 778. It appears at Page 56 of the English Book, Page 66 of the German. This document consists of a series of letters between Reichard of the Publicity Board just discussed and von Schnitzler during May and June 1934. These letters are offered for the purpose of showing that one of the early acts of the publicity Board was to set up-and I quote at the bottom of Page 56 of the English, Page 68 of the German - "a central advertising agency under State and Party supervision," called "ALA". And it shows that the defendant Schnitzler was appointed chairman of the Aufsichtsrat of "ALA."

The next document, NI-826, is offered as Prosecution's Exhibit No. 779. It appears at Page 59 of the English Book, Page 74 of the German. This document is a report which was submitted in July, 1939, to Reich Chancellor Lammere on the so-called Kiel Week during which week important foreign personages had been invited to Germany as part of the Nazi public relations program.

The first paragraph of this report, which was submitted to Lammere, states:

The experience, gained in connection with the Berlin Congress of the International Chamber of Commerce in 1937, that a German-Foreign understanding on problems and methods of economic policy is, in the first place, so difficult to reach, because international "norms of language" and a harmony of conception are lacking, was the reason that Dr. ILGNER proposed to the Auslandsklub last year of using the Kiel Week to bring leading German and foreign economists together, in order to establish at least the means of getting better acquainted with each other.

The report also refers to the German Auslandsklub in this connection.

An indication of the nature of the discussion which took place is

contained in an item at the bottom of Page 62 of the English in which--
I don't have this numbered. Since I do not have the German reference
number handy I will omit any quotation from this. The document is in
evidence and it is just a matter of the page number.

The Prosecution offers ---

THE PRESIDENT: Pardon me, Miss Mayer. I would like to call attention to the fact that while it is almost three o'clock, we started a half hour late and if it is agreeable to all of you, we will run until 3:15 before we have our recess.

MISS MAYER: Thank you, your Honor. The Prosecution offers Document No. NI-9896 as Exhibit 760. It appears at Page 83 of the English Book and Page 93 of the German. This Document consists of two letters written by Werner Siering. There has been a mistake in the signatures here. They read "Dierink". That should be "Siering."

The first of these letters, which is dated April 13, 1933 and which went to the Bayer director in Leverkusen, discusses the measures which are to be taken in Chile to combat anti-German sentiment there.

At Page 84 of the English Book, 94 of the German, Siering refers to a circular letter sent to all of its representatives by the Bayer Directorate explaining and extolling the Nazi regime and he indicated that he had it translated and printed as a circular letter to be sent to all doctors, dentists, chemists, and so forth in this country, as well as delivered to all the daily papers and leading personalities in that country.

The second letter of April 20, 1933, informs Bayer and Leverkusen of the wide distribution of the circular.

The Prosecution offers Document No. NI-9897 as its Exhibit 781. This appears at Page 87 of the English Book, Page 96 of the German. This document consists of two letters between Bayer of Leverkusen and the Bayer representative in Uruguay.

In the second letter dated July 29, Schaeffer, of Bayer and Uruguay, states that in order to combat anti-German propaganda they have agreed

to distribute -- the German legation has decided to publish a propaganda periodical for Germany and the Bayer people have agreed to publish and distribute it and I quote: "As the Legation does not possess the technical means required for getting them out at short notice."

I would merely call attention to the fact that in the first letter I believe that Herr Ho - H-O-period - referred to Homann who is a Farben official abroad who will be discussed subsequently.

The next document is NI-10267 which is offered as Exhibit 782. It appears at Page 89 of the English Book and Page 99 of the German. This is another circular letter of December 1933 which was sent to all Bayer representatives abroad over the signature of the Defendant Mann, and this article lauds Hitler and his accomplishments and the recipients of the letter are asked to distribute it.

The next two documents are further examples of the shipment in the early thirties of propaganda literature to foreign countries. The Prosecution offers as its Exhibit 783 Document No. NI-8420 which appears at Page 93 of the English Book, Page 119 of the German. This is an extract of a minute of a meeting of the Bayer Directorate with the Defendant Mann presiding, indicating the shipment of literature to Brazil.

The next document, NI-8424 is offered as Prosecution Exhibit 784. It appears at 94 of the English book and page 138 of the German.

This is an extract from another minute of the meeting of the Bayer Directors indicating the dissemination of literature by Bayer in France.

Document NI 8431 is offered as Exhibit 785. It appears at Page 95 of the English Book, page 152 of the German. This is merely an extract of a meeting of the Bayer directors with the defendant Mann presiding indicating that the Bayer agencies abroad were instructed to withdraw all advertising from newspapers publishing articles derogatory to the Third Reich.

The Prosecution offers as its Exhibit 786 Document No. NI-8432, which is set forth at Page 96 of the English Book, page 171 of the German Book. This is a minute of the meeting of the Bayer directors, the defendant Mann presiding, which states: "It has to be demanded of our representatives and agents abroad that they refrain from any political activity against the German Reich. At the next possible opportunity the Gentlemen are to be verbally pledged accordingly." This was February 1934.

The next three documents are offered for the purpose of showing that in addition to the line of their advertising these defendants participated in other schemes to influence the press abroad.

The first of these documents, NI-4610 is offered as Prosecution's Exhibit 797. It appears at 97 of the English Book, 180 of the German. This is a letter from Kaelble, the Bayer representative in Rio de Janeiro, of 26 September, 1934, to Leverkusen in which he states that he has agreed to pay 200,000 RM monthly to an agency established in close cooperation with the German Embassy, the local chapter of the Nazi Party and the German Chamber of Commerce for the purpose of combatting sentiment hostile to the New Germany.

We should like temporarily to skip over document No. NI-10575 and take the other two documents in this series.

The Prosecution offers HL-4613 as its Exhibit 788. This appears at page 102 of the English Book, page 196 of the German. This document consists of four letters all of which pertain to the establishment of an agency in Argentina similar to that which had been established in Brazil which was to make available to the Daily Press the daily releases of Transocean, which was the official news service of the German Propaganda Ministry.

The first letter is signed by Homann, who will be discussed more fully subsequently. In the second letter, which appears at page 104, the Beyer Directorate in Leverkusen, on June 14, 1935, refers the matter of giving financial support to the agency to the Central Committee and in the second paragraph states: "Our management is convinced of the necessity of supporting these efforts."

In the last paragraph: "In view of the urgency of this matter our management would appreciate an answer by cable, and we would therefore like to ask you to deal with this suggestion before anything else."

The third of these letters is signed by Gattineau, by the defendant Gattineau. The signature Kuttman is incorrect. In this document the defendant Gattineau states in the second sentences: "We were told that it is a question of a news agency for the purpose of gaining additional influence on the Argentine press in a way that cannot be recognized by the Argentinians. To carry out this camouflage, a purely Argentinian News Agency was founded . . ." And in the next to the last sentence: Apart from the Ambassador and the Press Attache (copy the rest down to "these matters." (p. 105)

In the next to the last paragraph of this document Gattineau states (copy p. 106)

The question of the contribution was referred to the Central Committee.

I.G. Berlin

Political Economy Department

Berlin NW 7, Unter den Linden 78

Handwritten
Director MEITZEL.

(Stamp):
The Secretariat of the Management,
Nov. 7, 1935, 9-10
Received

I.G. Farbenindustrie Aktiengesellschaft
"Bayer" Sales Combine Pharmazeutika
Leverkusen - I.G. Plant.

Your Reference
C 4

Your letter of:

Our Reference
Press Office
4

Date
6 November 1935

Re: Establishment of a News Agency in Argentina.

STRICTLY CONFIDENTIAL

Apart from the Ambassador and the Press Attache, no other government or party office has knowledge of the actual connection. As this service can only function, if the actual connections remain unknown to the public, we were most urgently asked to inform also within the I.G. only as small a group as possible of these matters.

The News Agency has already been operating for the last three months, after all German firms with the exception of I.G. had agreed to furnish financial support. The I.G. Representative, Mr. HOHMANN, on his part, also agrees.

The Press Attache also pointed out, that the office representing the I.G. was a very important strong point for the work there, especially since Dr. MENCKE - who is very well known in South America - had taken charge of the Bacteriological Institute.

POLITICAL ECONOMY DEPARTMENT

(Signature): MUTTMANN (?)

The next Document is HI-6896. It is offered as Exhibit 789. It appears at page 109 of the English Book and page 196 of the German. This is a letter from Siering, the representative in Chile, of December 2, 1935, to Leverkusen concerning the establishment of a central administration over the advertising funds of all of the large business firms in Chile. The purpose for this centralization of these funds was, as is

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set forth in the last clause of the first paragraph: "To direct the distribution of these funds through the press committee of the Chamber of Commerce according to momentary political requirements."

I should like to refer to Book 17 now, to Document NO/ NO-6701 which appears at page 33 of the English Book, page 46 of the German Book and which was the Prosecution's Exhibit 773.

In this report on his trip through Latin America in 1936 Ilgner indicates that he made an extended tour of inspection of all of the I.G. Farben organizations in Latin America and that he re-organized the Verbindungs Maenner who were Farben's confidential or Liaison agents abroad. At this point reference is made only to one paragraph of the document which is on page 39 of the English book. I don't have the page of the German; however, it is Roman VII, second paragraph under Arabic 2, in which Ilgner says:

"It is gratifying, however, to note that in recent years the cooperation between the German offices - I was able to observe this during my entire trip - has become closer and stronger from year to year; especially collaboration with the Foreign Organization of the NSDAP is developing more and more favorably. It is a well known fact that in the beginning the ideas of the said organizations did not always coincide in this respect; it is therefore so much more gratifying that, as I had occasion to observe particularly during my Latin American trip, this state of affairs has become a thing of the past."

THE PRESIDENT: This will be a convenient time for us to take our afternoon recess.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

DR. VON ROSFATT: (For the Defendant Krauch)

Mr. President, we have just noted that in regard to the exhibit and document book the Prosecution has taken the following procedure. The exhibit which is given to the Secretary General -- and I will give an example -- is twenty pages long. In the German document book there is an exhibit twenty pages long. In the English document book, which the Tribunal has, there are only one or two sentences of those twenty pages taken out of the context. The text which is the official exhibit, in the hands of the Secretary, is not what the Tribunal has. The Tribunal has only a few sentences which the Prosecution thinks especially incriminating. I have always noticed that the English document books are much shorter than the German ones. Up to now we had attributed this to the difference in language, since the English language can give the same sense in fewer words; but, we have noted -- for example here that in the case of five documents Exhibit 783 to 787 -- there is sixty-one page in the German document book and in the English document book there are only five pages.

We do not consider this procedure admissible, and we will be grateful to the Tribunal if the Prosecution could be asked to have the English document books agree with the German document books, or vice versa.

THE PRESIDENT: With respect to that matter, the Tribunal heretofore indicated that it is permissible for the Prosecution to offer a -- I don't mean offer, but to present to the Tribunal a part of a document that may only be an excerpt of that which is in the official exhibit which is made a part of the record in the case. That is due to the fact that the Prosecution may rely only on a part of the document, and it would burden the Tribunal in the consideration of the case to go through matter that is not, in the opinion of the Prosecution, pertinent or important. We have also indicated that when that occurs, and counsel for the defense feels that a larger consideration of the document is proper, that additional parts of the original document may be called to our attention and that we be provided with translations so that we may have the benefit of such additional

parts of the document. In that respect, no harm is done by this situation. However, the Tribunal can well see that to furnish the Tribunal with a part of a document, and to furnish German Counsel with an entire document, imposes upon Defense Counsel the burden of wading through a lengthy document book to determine what parts they may wish to inquire about, and to be advised as to what parts the Prosecution may rely upon. In that regard, the English and German books, as distinguished from the official exhibit, should be in harmony. That may be due to some error in the mechanics of administration, but we do feel warranted in calling attention to the Prosecution to the fact that no additional burden should be placed upon German counsel by leading them to believe that more of a document will be relied upon by the Prosecution than you expect to indicate to the Tribunal should be considered. There is no way, of course, that we can take out presently those documents that are in your hands, but we shall undertake to try to work out something that will relieve you of the burden of making a study of an extensive part of a document upon which the Prosecution has indicated no intention to rely.

If you will bear with us until we can finish this book, we shall ask the Prosecution to cooperate to make that possible to see that you will not be placed under that burden.

Mr. Dubois, may I inquire if you have taken note of what the Tribunal has said in regard to whether or not there can be some cooperation to work that matter out?

MR. DUBOIS: Yes, Your Honor, as a matter of fact we had discussed this during the recess, and we indicated that we would try to work out something to that effect, and we were going to call it to the attention of the Tribunal. I don't believe that this is a frequent occurrence; I may be wrong, but in any event there is no reason why we can't sit down with the Defense Counsel with our books and their books and show them what parts we put in our books and underline it for them or with them together. We can show what is in our books as distinguished from what is contained in the original.

THE PRESIDENT: Let the Tribunal add, Mr. Dubois, that that should be done far enough in advance so that Counsel for the Defense will not be burdened to familiarize themselves with more of a document book than the Prosecution expects to rely upon.

MR. DUBOIS: There is no question about that, Your Honor. I frankly am a little surprised about that. I don't believe it is a frequent occurrence. I think the normal reason for the difference in page number is not due to this. To my knowledge that is the case, but in any case I will have a study made and see to what extent it is a more frequent occurrence and try to correct it accordingly.

DR. VON ROSFATT: Thank you.

MISS MAYER: Your Honor, the Defense Counsel have asked me to call your attention to the last item on the first page of the index to Book 44. This states correspondence during May and August, 1934 concerning the appointment of von Schnitzler as a member of the Aufsichtsrat, and what comes next should be of Als, A-1-a.

THE PRESIDENT: We have that correction on our books.

MISS: Turning to page 4 of the index to Document Book 44, the Prosecution offers Document NI-070 as Exhibit 790. This appears at page 111 of the German book, and page 200 - page 111 of the English book and page 200 of the German. There is a letter of January 27th, 1937 from Schwarte, who accompanied the defendant Ilgner on his Latin American trip, to the foreign office in which he refers to a previous conference with the foreign office on the subject of Ilgner's trip, and sets forth some of Ilgner's suggestions for creating pro-German sentiment in Latin America.

The prosecution offers Document No. NI-2787 as its Exhibit 791. This appears at page 116 of the English and page 208 of the German. This document was taken from I.G. Farben files in Frankfurt and is a listing of isolated shipments of what, in the aggregate, amounts to hundreds of books. We believe that the titles indicate the nature of the literature. Most of these books were forwarded after the defendant Ilgner's return from Latin America.

The next eight documents, the last eight documents in this book, are examples of gifts of literature, money and cameras to individuals and to German organizations in Latin America. The Prosecution offers Document No. NI-2843 as its Exhibit 792. This is a letter of December 23, 1937, from Ilgner to the regional group of the Nazi party at Sao Paulo concerning a gift of a book collection. It appears at 139 of the English book and page 231 of the German.

The prosecution offers as its Exhibit 793, Document No. NI-2802 which appears at page 140 of the English book and 234 of the German. This is a letter of September 3, 1936, from Jähle of the National Socialist German Workers Party in Rio to Aefe, acknowledging the gift of a camera and projector.

The prosecution offers Document NI-2790 as its Exhibit 794. This appears at 141 of the English book and 235 of the German. This document consists of two letters, the first of which is dated October 7, 1936, from the defendant Ilgner to the head of the national group of the NSDAP in Buenos Aires enclosing gifts of the Fuehrer's book and referring to previous gifts of movie camera and reproduction apparatus.

The second letter is the acknowledgement of these gifts. The prosecution offers Document No. NI-2801 as

its Exhibit 795. This is a letter of 15 September 1936 from Spanas of the LBDAL of Brazil, acknowledging other gifts of books and cameras.

Document No. NI-7338 is offered as the prosecution's Exhibit 796. This is correspondence between the Latin American Division of I.G. Farben and the Central Committee of the Vorstand dated December 31, 1936, and February 19, 1937, concerning annual contributions for the promotion of German cultural institutions in Peru.

The prosecution offers NI-4864 as its Exhibit 797. It appears at page 147 of the English book and page 243 of the German. This document is a minute of a meeting of the Working Committee of the Vorstand held on January 11, 1937, which approved contributions to various German organizations abroad; the defendants Joimitz, Buelefisch, Ogowski, Kriewitz, Kuehne, Kana, ter Meer, and von Schmizler were present at this meeting.

The next document NI-8512 is offered as Exhibit 798. This is correspondence between Bayer, the Central Committee, and various subsidiaries in Mexico referring to an agreement by the Vorstand to make a contribution towards the building of a German highschool in Mexico.

The document appears at page 153 of the English and page 251 of the German. In this connection, the prosecution also refers to NI-4865 which has already been placed in evidence as Exhibit No. 79 and which has been previously described.

THE PRESIDENT: Pardon me, counsel, Do you wish to pass document NI-10575 referred to on page 4 of our index?

HIS HONOR: Your Honor, I would like to offer that in connection with some other documents on Homann which appear in the next book.

THE PRESIDENT: "Very well.

THE LAYER: The first two documents contained in Book No. 45 show the continuance of the Farben program in disseminating propaganda abroad and supporting organizations engaged in propaganda activities.

The prosecution offers as its Exhibit 799, Document No. NI-6126 which is at page 1 of both books. This is a memorandum from the management at Leverkusen of June 13, 1940, to the Farben dye stuffs sales department in connection with the contribution to a school, the building of a school in Chile which the Bayer people in Leverkusen say plays an important part in the struggle for the preservation of the national consciousness of the Ethnic Germans there.

Document No. NI-6488 is offered as Exhibit 800. It appears at page 2 of the English book, page 3 of the German. This exhibit consists of two letters both dated September 1, 1937, with respect to the shipment by Leverkusen and by WIFO of the Berlin Northwest 7 Office of propaganda material provided by the propaganda ministry to Brazil.

The prosecution would like to call attention to the fact that the signature in the second letter "Muttman" should be "Gattineau." The prosecution refers to Document NI-4959 which is already in evidence as Exhibit 363. It appears at page 5 of the English book, page 7 of the German and is a minute of a meeting of the Commercial Committee held on September 10, 1937, with the defendants von Schnitzler, Haefliger, Ilgner, Mann and Oster present.

I refer to paragraph 10 of this minute which appears at page 9 of the English book and 16 of the German book, in which the Commercial Committee passes a resolution which states that "it is generally agreed that under no circumstances should anybody be assigned to our agencies abroad who is not a member of the German Labor Front

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and whose positive attitude to the new era has not been established beyond doubt gentlemen who are sent abroad should be made to realize that it is their special duty to represent National Socialist Germany. They must particularly realize that. The Sales Combindes are also requested to see to it, that their agents are adequately supplied with National Socialist literature.

"Collaboration with the Auslands Organization must become more organized. It seems expedient to work out a uniform plan jointly with the A.O. which will show within which period of time it will be possible to eliminate deficiencies still existing with our agencies abroad, which have been a subject for complaint."

The next document HI-2782 is offered as Exhibit 801 and it consists of four certificates which are offered as examples of the kind of pledges which Foreign employees had to sign before going abroad.

The next document HI-631 is offered as Exhibit 802. It appears at page 14 of the English book, page 23 of the German book, and consists of correspondence of October 1942 concerning a luncheon which was given by the Commercial Committee for officials of the Auslands Organization for the stated purpose of maintaining good relations with that organization. Reference is made to the prosecution's Exhibit 379 which is Document HI-2786. This is a letter of January 31, 1942, from Walzel and the defendant Ilgner to the Auslands Organization stating that in addition to the cooperation extended by the other departments of Foreign, the WFO or political-economic policy department of Berlin would always be at the disposal of the party.

The prosecution offers as its Exhibit 803, document No. NI-8428, which appears at page 18 of the English book, page 30 of the German book. This is a memorandum of the meeting of the Bayer Directorate, on February 16, 1938, at which the defendant, Mann, pointed out that the entire Bayer organization was aligned with the National Socialist attitude; that orders were again to be given to Bayer's leading representatives abroad to collaborate with the Nazi organization; again to withdraw all advertising from Anti-Nazi papers, and to weed out the few remaining Jews in organizations abroad.

The prosecution refers to document NI-8489 which is already in evidence as Exhibit 129, which was a letter of February 25, 1938, from the defendant Mann to Homann, the Farben representative in Argentina, reminding him that he was to support not only the Government agencies, but also official party agencies in their work abroad; that he was to avoid placing orders with anti-German firms, or of using any hostile newspapers.

Document NI-10712, is offered as Exhibit 804. This is a memorandum of January 10, 1941, from Frank-Fahle, the defendant Ilgner's deputy in Berlin, to Ilgner, concerning a discussion with German Ambassador Von Therman, on the re-establishment of German air communications with South America.

The document which appears at page 21 of the English, and page 50 of the German, also discusses a visit to Germany for propaganda purposes of a high-ranking officer in the Argentinian Army, and in connection with the next two documents, which the prosecution will offer, I should like to call attention to the last sentence in the first paragraph of page 23 of the English book, page 50 of the German,

which states: "Though the case against the pharmaceutical firms in which the BAYER representatives were also implicated is resting, it has not yet, however, come to a conclusion so that Herr Homann is not yet granted the exit visa."

The Prosecution offers as NI-10555, Exhibit 805, which appears at page 24 of the English book, page 51 of the German book. This document represents excerpts from the Department of State Blue Book on Argentina which was published in 1946.

In this document, page 41 of the English, page 61 of the German book, certain findings of the Department of State are set forth, which have as their basis the testimony of an expert of the German foreign office. The finding, I should like to especially refer to, is that the leading Nazi business firms in Argentina, were involved in conducting propaganda and espionage activities in Argentina.

There then follows certain facts about I. G. Farben's activities which were adduced by the Senate Sub-Committee on one organization in 1945; At page 43 at the bottom, the German foreign office expert lists a number of these German firms which he is referring to, including Anilinas Alemanas, and Quimica Bayer, which were both Farben subsidiaries.

There also is listed a number of the more notorious spies and subversive agents in Argentina, and the German firms with which they were associated. This will be referred to more extensively subsequently under espionage. I merely point out here the listing of Heinrich Homann, Manager of Quimica Bayer. Turning to Book 44, I should like to offer the documents listed in the index at the top of page 4, NI 10575, is offered as Exhibit 806.

This document appears at page 98 of the English book, 44, and page 182 of the German. It is an excerpt from a note

verbale issued on February 13, '46, by our W mbasey in Argentina to the Argentine Goreign office on Heinrich Homann, and this note verbale indicates in detail Homann's activities in Argentina on behalf of the Auslandsorganiza-tion in disseminating propaganda, and his services to the Intelligence Service of the German High Command.

Prosecution offers in Book 45, NI 2786, as its Exhibit 807. This appears at page 47 of the English book, page 66 of the German. It is a memorandum of April 14, '38, which went to the defendants, Ilgner, and Gattineau on a meeting of the International Central Office of Joy and Work of the German Labor Front which was attended by a Farben representative.

The document indicates that from 1938 on, I.G. Farben representatives abroad managed the, "Strength through Joy" campaign, which was a propaganda campaign of the German Labor Front in Latin America, and in the West Indies; the purpose of the campaign was to win, according to this memorandum, friends --- to gain new friends for Germany.

It also indicates that the purpose which the German Labor Front had in having Farben take over the management of this campaign, was so that less obvious representatives than those of the Labor Front itself would be conducting the campaign.

Themin. te also indicates that for the first time a representative of a private firm was present at the Conference -- at a conference of this particular organization.

The prosecution offers document No. NI 7984 as Exhibit 808. It appears at page 53 of the English Book, page 76 of the German. This is a report on Latin America given to the Commercial Committee on September 30, 1938, by Overhoff who was an official of I.G. Farben in Latin America.

In this report he discusses the Anti-Third Reich sentiment in South America, which he claims was the result of -- this is 1938 -- was the result of an intensive United States campaign against Germany in Latin America. The report

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then goes on to discuss counter-measures.

The prosecution offers as Exhibit 809 Document NI-2844 which appears at page 54 of the English Book and page 85 of the German book. This document and the next few documents represent correspondence between Farben and the German Information Committee with respect to a campaign entitled "Fight Against the USA." This was being waged by the Information Committee in Latin America in the press and on the radio. In the particular document which is offered the Committee submits a list of articles to I.G. Farben indicating that they have been placed in the press. The nature of these articles is indicated by their titles.

The prosecution offers NI-2900 as its exhibit 810. This appears at page 82 of the English Book, page 107 of the German Book. This is a reply by I.G. Farben of 22 September 1939 to the Committee in charge. They acknowledge the list of anti-US publications and suggest that the Committee get in touch with Rosann who can reach certain very influential people not included in the Information Committee's list.

The prosecution offers NI-7333 as its Exhibit 811. This document is another letter from the Information Committee to Farben on August 21, 1940 which gives another list of articles disseminated by it. This time the list is restricted to Chile. It appears at page 84 of the English Book, page 110 of the German.

The prosecution offers as its Exhibit 812, Document No. NI-7335, another exchange of correspondence with respect to Bolivia.

The next document, NI-7336, is offered as Exhibit 813. This document appears at 130 of the English Book, 172 of the German. It's a letter of May 31, 1940 from the

Latin-American Division of Farben to the Central Committee of the Vorstand approving contributions in Argentina.

The next document, NI-8937, is offered as Exhibit 814. It's found at page 131 of the English Book, page 173 of the German and it's the cable from the Mexican subordinate of I.G. Farben asking for authorization in case war breaks out to make available monthly payments of 10 thousand pesos to the German Legation for the purpose of influencing the press in Mexico. The cable is dated 4 September 1939 and there's a notation on the document to the effect that the Vorstand approved such a contribution. I would like to point out here, your Honors, that throughout these books there appear isolated groups of documents showing particular contributions, in particular periods in the early 30's, the middle and late 30's and during the war. These particular documents do not purport to give any conclusive picture on the financing of the propaganda activities so far as the amount is concerned because it is the contention of the prosecution that the greatest support of propaganda abroad derived from the Farben payments of the salaries of the many employees of theirs which was engaged in propaganda activities but these isolated documents have been included for the purpose of showing the circumstances under which these gifts were made or the relationship between the donee and the defendants.

The prosecution offers as its Exhibit 815 Document No. NI-1332 which appears at page 132 of the English Book, page 174 of the German. This is an excerpt from a minute of a meeting of the department heads of the Berlin NW-7 Office of July 23, 1940 in which there is a discussion of obtaining the Central Committee's approval of

certain contributions for the support of German newspapers abroad.

The next two documents are introduced for the purpose of showing that these defendants also sought to influence the press through the subsidization of young newspaper reporters.

The prosecution offers as its Exhibit 816 Document No. NL-1078 which appears at page 136 of the English Book and page 177 of the German book. It's an excerpt of the meetings of the Berlin NW-7 held on November 1937 with the defendant Gattineau present in which they mention the fact that the Commercial Committee is sponsoring a Young National Socialist editors abroad.

The prosecution offers NL-716 as its Exhibit 817. This appears at page 138 of the English Book and page 183 of the German. This is a letter by the defendant von Schnitzler of November 36, 1937 to the Commercial Committee advising caution in the so-called "Supervision of Nazi newspapermen in Czechoslovakia". He also discusses the situation in Yugoslavia.

Document No. NL-6293 is offered as Exhibit 818.

This document consists of two minutes of the meetings of the Commercial Committee in June 1928 and 1929, in which contributions to German Institutes of Culture in the Southeast are approved. The purpose of these organizations is described in the document to be for the purpose of uniting all defense toward political and cultural rapprochement between Germany and the Southeast. The defendants von Schnitzler, Haefliger, Ilgner, von Knieriem, Kusler, Mann, ter Meer and Oster were present at this meeting.

The prosecution offers Document NI-5751, as Exhibit 819. This is the meeting of July 7, 1938 in the Berlin Offices in which it was noted that the I.G. Farben was going to pay the salary of the business manager of the German-Yugoslavia Chamber of Commerce and it also noted that I.G. was sending an assistant abroad to help Degener of the New York or German-American Board of Trade and his assistant was to be paid by I.G. Farben.

The prosecution offers as its Exhibit 280 of the German. This is a meeting of a mail meeting in the Berlin Office of 15 December 1938 and indicates that officials of the German Government were consulted on and approved the appointment of this von Bismarck as assistant to Degener.

The prosecution offers as its Exhibit 821 Document NI-977 which appears at 148 of the English Book and 213 of the German. This is an affidavit of Hausin of 15 August 1947. He was the head accountant of the Bayer Sales Department and it shows the contributions made by Hausin abroad to various German organizations.

The figures set forth in this affidavit were all based on records of the Central Committee of the Vorstand which approved all these contributions with one or two minor exceptions. Records were available only for the years following 1937. The affidavit is broken down according to countries and the year and the contributions are set forth in Reichsmarks and in their local currency equivalent.

Your Honor, there's a question about the signature on one of these documents. (To attorney Von Keller) I wonder if you would be kind enough to take this up after this session and could we get together?

DR. VON KELLER: I will discuss it with the prosecutor after the session.

THE PRESIDENT: I don't believe the sound-track is getting what you have to say. Will you repeat, please?

DR. VON KELLER: I will have a discussion with the prosecution concerning Document 715 which is Exhibit 817 here. I will discuss the question after the session with the prosecution and if we reach agreement I will put it in the record tomorrow.

DR. BENZE: Mr. President, from this I can clarify this question. It's the signature on Document 715. My client signed it.

MISS MAYER: Is it Exhibit 715?

THE PRESIDENT: The Counsel may proceed.

MRS. MAYER: The Prosecution offers as Exhibit 822, Document NI-9776, which appears at page 175 of the English Book and page 237 of the German. This is another affidavit by Hausen showing the foreign funds, as opposed outright contributions made available by Bayer to various representatives and organizations of the Third Reich abroad, for which Farben was reimbursed in Reichs Marks by the Reichsbank. This affidavit is based on the records of Farben's industrial financial administration.

The Prosecution offers as Exhibit 823 Document No. NI-11196, which appears at page 179 of the English Book and page 242 of the German Book. This is a report of November 5, 1942, submitted to the State Department by our Assistant Commercial Attache at Shanghai, in which he describes the extensive propaganda activities conducted by the Germans in China and in particular by 10 members of the staff of I.G. Farben in their Shanghai branch, who, the attache indicates, belonged to the official German Gestapo and were active in various forms of political activity in Shanghai.

THE PRESIDENT: This completes the book doesn't it?

MRS. MAYER: Yes, this completes the book, your Honor.

DR. von ROSPATT: Dr. von Rospatt. This morning as I heard from my colleagues, the Tribunal suggested that in the future when affiants are cross-examined only one defense counsel should carry out the cross-examination when possible. In order to be able to fulfill this request, it seems necessary to the defendants and to the defense counsel that the defendants be allowed to discuss in groups or altogether which defense counsel is to be charged with the cross-examination. I have talked to the Prison Officer just now, and he is willing that on this and following week-ends on free days the defendants may meet in smaller groups or altogether in the prison for this purpose. Mr. Sprecher of the Prosecution approves this idea. I should merely like to ask the Marshal to leave the defendants in the Courtroom long enough after this session

until we have agreed which of the defendants are to hold a discussion tomorrow and on the following days, so that we can give a plan to the Prison Officer.

THE PRESIDENT: That arrangement is entirely satisfactory to the Tribunal. I doubt whether or not the Marshal knows what was just said. I notice he doesn't have his earphones on.

THE MARSHAL: I heard it, your Honor.

THE PRESIDENT: Did you get it? Thank you.

And if you'll cooperate along that way, Mr. Marshal, we will appreciate it.

I should say, on behalf of the Tribunal, that we are not imposing any absolute rule of that kind that only one counsel may cross-examine. The purpose of our observation was to suggest that where it is possible to group the cross-examination that one representative can speak for several. It will be a great saving of time where it can be done with due regard to the interests of your clients. Let us not impose that as any absolute rule whatever.

MRS. MAYER: Your Honor, I hesitated after putting in this Book 45 because I noticed it was 4:30, and we usually adjourn at that time. Do you wish the Prosecution to continue today?

THE PRESIDENT: It seems that since we have reached the regular time for adjournment and have just completed a book, it would be a good time to suspend, unless there is some particular reason why we should go on.

MRS. MAYER: There's not, your Honor.

THE PRESIDENT: Has the Prosecution any announcements to make with reference to the next session?

MR. SPRECHER: May it please the Tribunal, the order of trial we planned is generally as follows: We will interrupt the presentation of the documents under Count I-G of the Indictment for the time being in order to go on Tuesday morning with the film, "The Nazis 'Rise to Power.'" Thereafter, we would like to continue with a number of

witnesses. For the benefit of the Defense I would like to indicate the next five or six witnesses, without exactly stating which will appear first, in view of the fact that travel arrangements and things like that don't always make it possible to make such a declaration at this time. But, in any event, I will additionally try to give other notice informally to one of the defense counsel when we do have more certain information. Next week rather early I think we should be able to call to the witness stand the affiants Mischko, Ehrmann, Mulert, and Wagner. Now, by Thursday of next week we had hoped to reach the affiant Struss. I have made an arrangement with Dr. Berndt, Defense Counsel for the Defendant Ter Meer, that he would have all of next Wednesday with Dr. Struss so that possibly they can clear up a number of things and thereby save detailed cross-examination in Court, and thereby I will have a conference with the witness and Dr. Berndt at that time. But if our plan moves right, Dr. Struss should come on about next Thursday

Your Honors, will remember that by far and wide Dr. Struss has given more affidavits than any other affiants, and, therefore, that's a rather big task. We should then plan to call some more witnesses, and we hope that in the meantime we should talk further to the defense concerning the least inconvenient schedule possible that we can arrange in terms of what the problems are in getting the witnesses here from various zones and various places.

THE PRESIDENT: Thank you. Is there any other announcement before we recess? If not, the Tribunal will recess until Tuesday morning at 9:30 o'clock.

THE MARSHAL: The Tribunal will be in recess until 0930 o'clock Tuesday morning.

(The Tribunal adjourned until 0930 o'clock 7 October 1947.)

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NATIONAL ARCHIVES MICROFILM PUBLICATIONS

OFFICIAL RECORD

UNITED STATES MILITARY TRIBUNALS NURNBERG

**CASE No. 6 TRIBUNAL VI
U.S. vs CARL KRAUCH et al
VOLUME 6**

**TRANSCRIPTS
(English)**

7-14 October 1947 pp. 1699-2109

Official Transcript of the American Military Tribunal No. VI in the matter of the United States of America against Carl Krauch, et al, defendants, sitting at Nurnberg, Germany, on 7 October, 1947, 0930-1630, Justice Shake, presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI. Military Tribunal No. VI is now in session. God save the United States of America and this Honorable Tribunal.

THE PRESIDENT: Mr. Marshal, are the defendants present?

THE MARSHAL: May it please your Honors, all the defendants are present save the defendant Wurster absent due to illness.

THE PRESIDENT: At this time the Tribunal desires to read into the record a statement directed to counsel with regard to the future procedure of the case. You will no doubt obtain a general idea of the object of the statement from its reading from the Bench, but we invite you to carefully scrutinize it as soon as it is available to you in transcript Judge Hobert will read the statement into the record.

JUDGE HERBERT: Gentlemen, we have reached the stage in the trial of this case at which the Tribunal considers it a duty to survey the problems which are likely to arise in relation to the future progress of the trial from the viewpoint of time to be required in completing the case. In this connection the Tribunal is mindful of a duty imposed by Military Government Ordinance No. 7 which directs that the trial be strictly confined to an expeditious hearing of the issues raised by the charges and that strict measures be taken to prevent any action which might cause unreasonable delay, and to this end to rule out irrelevant issues and statements of any kind whatsoever.

Considering the responsibility imposed on the Tribunal under such provisions of the Ordinance and considering the fact that the trial has now been in progress for more than a month, the Tribunal deems it proper to call on the prosecution at this time for a statement concerning its future plans with reference to the conduct of the prosecution and the probable time that will be required to complete the case in chief. It is

recognized, of course, that situations may arise which will necessitate variations from any planned program in the presentation of evidence. It is not the desire of the Tribunal at this time to bind irrevocably either the prosecution or the defense by any statements made in response to this request for information, but rather to elicit general information which may be of assistance to the Tribunal in its consideration of measures to be taken in connection with future proceedings.

Specifically, it would be helpful if the prosecution could now indicate to the Tribunal the following:

(a) An estimate of the approximate number of witnesses to be called, with an estimate of the number of trial days to be required for the examination of such witnesses.

(b) Statement of the total number of documents yet to be introduced, and the prosecution's estimate of the number of trial days which will be required to introduce these documents.

(c) The prosecution's present estimate of the approximate target date or total number of trial days that will be required for the completion of its case in chief.

(d) Any other relevant information which the prosecution feels the Tribunal should have to permit it to perform its responsibility for insuring the expeditious trial of the case.

With reference to the defense, the Tribunal wishes now to advise the defense that it may not be possible to take a recess between the completion of the presentation of the prosecution's evidence in chief and the beginning of the presentation of evidence on behalf of the defense. In the interest of time, considering the volume of the evidence, it may be necessary to proceed with the opening statement for the defense and the presentation of evidence immediately following the completion of the case in chief. The Tribunal is mindful of the fact that until all evidence on behalf of the prosecution has been presented, it would not be proper to request the defense to furnish detailed information comparable to that

above requested from the prosecution. However, upon completion of the prosecution's case the Tribunal will desire that the defense furnish the following information:

(a) Estimate of the total number of witnesses to be called on behalf of the defense, exclusive of the defendants who may elect to take the stand, together with estimate of the number of trial days likely to be required in connection with the production of such evidence.

(b) An estimate of the total number of documents to be introduced on behalf of the defendants, together with an estimate of the number of trial days which will be required for the introduction of such evidence.

(c) An indication of the amount of time likely to be required for the examination of those defendants who wish to take the stand. In this connection it should be observed that any statement made by the defense counsel in this regard will not obligate a defendant to take the witness stand if, at a later period of the trial, he does not desire to do so.

(d) Any other relevant information which defense counsel wish to present to the Tribunal, calculated to be of assistance in the performance of the Tribunal's duty of insuring the expeditious trial of the case consistent with fair opportunity to the defense to present all matters relevant to the defense of each defendant.

The Tribunal has in mind re-examining, from time to time, the weekly schedule and the daily hours of sittings. The foregoing information will be of material assistance in dealing with these subjects.

In the interest of further conserving time and promoting the orderly presentation of the evidence, the Tribunal also takes the liberty of offering another suggestion. It has occurred to us that the defendants who will take the witness stand might welcome the opportunity to file affidavits, in lieu of a substantial part of their personal testimony. Such affidavits could well cover such subjects as, for example, their personal history and their connection with Farben and other enterprises prior to 1933. Such defendants would, of course, be subject to cross-

above requested from the prosecution. However, upon completion of the prosecution's case the Tribunal will desire that the defense furnish the following information:

(a) Estimate of the total number of witnesses to be called on behalf of the defense, exclusive of the defendants who may elect to take the stand, together with estimate of the number of trial days likely to be required in connection with the production of such evidence.

(b) An estimate of the total number of documents to be introduced on behalf of the defendants, together with an estimate of the number of trial days which will be required for the introduction of such evidence.

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examination. This procedure, if adopted, would save considerable time and effort and orderly presentation of the facts pertaining to the matters to be presented.

It is not the thought of the Tribunal that any defendant should be denied the privilege of a personal appearance on the witness stand or of testifying orally as to such matters as he or his counsel feel should receive such treatment. If counsel for the defendants consider that this suggestion has any practical value, the Tribunal will be glad to discuss with them the details of such a program.

THE PRESIDENT: As your President observed at the opening, we trust, gentlemen, that you will familiarize yourselves with those suggestions as soon as the transcripts of the proceedings are available to you and that you will keep them in mind and undertake to cooperate with the Tribunal by making this information available at the proper time.

In that connection could the Prosecution indicate to us now approximately how much time will be required to furnish the information that is requested of the Prosecution?

MR. SPEECHER: Yes, Mr. President. Mr. Dubois will make a statement to the Tribunal in open court at the beginning of the session tomorrow, if that is agreeable with your Honors.

THE PRESIDENT: That is eminently agreeable. And, now, Mr. Prosecutor, have you any observations to make at this time with reference to today's proceedings?

MR. SPEECHER: Yes, Your Honor, if you please. First, we will have the showing of the film, as previously announced; and then, at the request of defense counsel, the witness Mueller will take the stand followed by the witness Ehrmann. I have just been informed that one of the other witnesses, Mischke, has arrived. I trust it will be possible to reach him today or, if not today, tomorrow.

However, it is possible that we will want to call first the following witnesses concerning whom service was made by the Secretary-General over

the weekend; Frank Falla, Daik-Fischer, Fritz Bach; I think Wagner was already announced as a possibility for the first several days. Now, we still plan on Thursday to start off with Dr. Struss unless there is a witness hanging over at that time and, of course, that witness has given more affidavits than any other.

Now, your Honors, there is one other thing; I asked your secretaries to have you bring in the afternoon transcript from the tenth of September. Do you have those with you?

THE PRESIDENT: We do not have them presently with us but we have them laid out to bring in. Will we need those in connection with the showing of the film?

MR. SPEECHER: No, your Honor. I can get the afterwards.

THE PRESIDENT: We can get that at the recess.

MR. SPEECHER: Mr. President, the Prosecution would like to mark for identification, as Prosecution's Exhibit 824, the film which is about to be shown. We have talked to Major Grenz, the head of the Reproduction Branch, and he states that this film may be needed in a number of other cases. However, this film is the property of the Office of Chief of Counsel and after that film has been shown before other Tribunals and its use is no longer needed, he has agreed that it will become the property of the Secretary-General and, therefore, become a part of the permanent archives of the Nurnberg trials conducted by the American authorities.

THE PRESIDENT: If there is no objection the Prosecutions tendered exhibit 824 will be admitted in evidence. The Tribunal hears no objection and the exhibit is admitted in evidence.

May we say, Mr. Prosecutor, that in the interest of maintaining a consistent record it may be advisable to enter subsequently some order to the effect that this exhibit may be made available for other legitimate uses provided there are proper assurances of its ultimate deposit with the Secretary-General.

Are you now ready to exhibit the film?

MR. SPEECHER: Yes, your Honor. There is one technical question in connection with it. I believe if your Honors remain at the bench it will be rather difficult for you to get a proper view and our suggestion would be that, if possible, you take these seats down here.

THE PRESIDENT: Very well. If the mechanical arrangements have been made for the exhibiting of the film, the Tribunal will retire to the floor of the courtroom to view the film.

Let the Chair remind those in the courtroom that during our absence from the bench the court is yet in session.

(Showing of film until 1200 hours.)

THE PRESIDENT: The record may show that the Tribunal had witnessed a presentation of the film marked Exhibit 824. It is now exactly 12 o'clock. Is it agreeable with counsel to rise for lunch at this time until 1:30?

The Tribunal will now rise until 1:30.

(A recess was taken until 1330 hours).

THE PRESIDENT: The record may show that the Tribunal had witnessed a presentation of the film marked Exhibit 824. It is now exactly 12 o'clock. Is it agreeable with counsel to rise for lunch at this time until 1:30?

The Tribunal will now rise until 1:30.

(A recess was taken until 1330 hours).

AFTERNOON SESSION

(The hearing reconvened at 1330 hours, 7 Oct. 1947)

THE MARSHAL: Persons in the courtroom will take their seats.

The Tribunal is again in session.

MR. SPRECHER: May it please the Tribunal, do you now have with you, Your Honors, the afternoon transcript from the 10th of September? At the request of Dr. Gierlichs, I would like to indicate an error at page 716 of the transcript in the English. Dr. Bacham made an objection at that time, and I have checked the question of the translation and the original with Dr. Gierlichs, since he speaks English.

Your Honors will note, if you found that page 716, that at the end of the first full paragraph I made a statement which was commenting upon Document NI-653, NI-653, which is a letter of the 12th of August 1937 from the Defendant Schnitzler to Dr. Bosch concerning the reformation of the Commercial Committee in the fall of 1937. I either mis-spoke myself or else there was a failure in the transmission, because I gave a completely wrong impression. The translation is absolutely correct, and I would merely like to note that in the next to the last sentence, which begins: "Then he notes that in connection with the Four Year Plan there are certain problems to a certain degree over defense politics;" that should be altered to have the following meaning, which comes directly from the translation. "Then he notes that in connection with the Four Year Plan there are certain problems which even have a priority to a certain degree over defense politics."

The German word--the crucial word--is "wehrpolitischen."

THE PRESIDENT: That correction has been noted.

MR. SPRECHER: Prosecution witness Botho Mulert to the stand.

BOTHO MULERT, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will stand, hold up his right hand, say "I" and repeat his name.

WITNESS: I, Botho Mulert.

THE PRESIDENT: The witness will now repeat after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and

will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

DIRECT EXAMINATION

BY MR. SPEECHER:

Q. Witness, will you state your full name for the record?

A. My name is Botho Alvin Lalart.

Q. Where do you now reside?

A. In Minden, Bachstrasse 14.

Q. What is your present occupation, Doctor?

A. I am department chief for the Administrative Office for Economy in Minden.

Q. Where was your address before the German collapse in 1945?

A. It was Berlin, Schleierstrasse, Spanische Allee 68.

Q. Is it true that between 1922 and 1944 you held a number of different positions in the Reich Ministry of Economics?

A. Yes.

Q. When did you first come into contact with representatives of the Prosecution?

A. I cannot fix the year exactly; it was, as far as I remember, comparatively soon after I entered the Reich Ministry of Economics.

Q. I think there has been a misunderstanding. When did you meet some of the representatives of the Prosecution Office--that is, of the Office of Chief of Counsel? Was that in July or August of this year?

A. At the beginning of August of this year.

MR. SPEECHER: Your Honors, the three statements of this witness which come into question are in the hands of the witness. I saw to that this morning; and they may be found as noted in the memorandum of the 23rd of last month, of September, which I gave to Your Honors. Should I repeat them now?

THE PRESIDENT: Perhaps you had better do so.

by Mr. speaker:

Q. The first document--and, witness, will you just check to see that you have these in this order? The first document is Exhibit 513 which is NI-9477; that is found at the English document book 16, page 30, and in the same document book of the German, page 56.

The next document is Exhibit 671. That is found in Book 31, Document No. NI-9478. It is found at page 25 of the English and page 26 of the German.

The last document is Exhibit 705, NI-9476, which is found in Document Book 37; English page 17, German page 20.

You have the aforementioned documents before you, Dr. Mulert?

A. Yes.

Q. Would you take your copy of the first document, NI-9477. Since you executed the affidavits--since you swore to this affidavit on the 11th of August 1947, have you had an opportunity to think over that affidavit and the statements you made therein?

A. Yes.

Q. And have you talked the affidavit over with me yesterday?

A. Yes.

Q. Will you tell the Court whether or not you have anything to add or anything to modify in this affidavit in order to make it appear completely true, in your opinion at the present time?

A. No, I have nothing to add or change in this affidavit.

Q. Will you pass to the next affidavit, Dr. Mulert, which is NI-9478, Exhibit 671?

MR. SPEECHER: That, Your Honors is in Volume 31, page 25 of the English, 26 in the German.

BY MR. SPEECHER:

Q. Witness, that is an affidavit which, among other things, mentions the WFO. Do you have anything to add to this affidavit, or to modify in this affidavit so that it now more closely approximates your view of the truth.

A. No, nothing to add or to change.

MR. SPRECHER: The next document then, Your Honors, is NI-9476. That is in Document Book 37, and here the witness has some changes, so I think you might wait until you find that one.

JUDGE MORRIS: Page 17

MR. SPRECHER: The German page 20.

BY MR. SPRECHER:

Q. Witness, yesterday, in discussing this affidavit, you indicated to me, so far as I remember, two additions or modifications which you felt it necessary to make at this time.

MR. SPRECHER: May I point out that the first one, Your Honors, is in paragraph 2, and I will ask the witness to state briefly what addition or modification he would like to make.

WITNESS: I have the following additional statement to make with regard to No. 2. I should like to say that it differs in a few words from the draft which I submitted to you yesterday. It says, in this Exhibit 705 under numeral II: "I understand by preparations for war the economic measures of the government which was to enable German economy to make itself independent from foreign countries as far as possible, and to fulfill its duties in the case of war-like complications". "This should, under no circumstances, be meant that Farben worked to effect such preparations for war on its own initiative, and at the same time it is not to be construed to mean that here we are concerned with a war of aggression."

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BY DR. SPEECHER:

Q. Is it your position that you did not want to take by this affidavit and that you do not want to take at this time any position whether and to what degree I.G. Farben or its leaders on their own initiative worked in the direction of a preparation of a war of aggression?

A. Yes.

Q. Do you want to take any position concerning their objective views. Is that correct?

A. No, I merely want to say that the words "preparation for war" does not include the attitude of Farben.

Q. Now does that complete that correction, witness?

A. I have another addition to No. 4.

Q. That is the second correction. Go ahead.

A. In No. 4 we discussed the fact that there was no branch of war economics which was not in some way or other dependent on Farben. Besides the products mentioned under No. 3 heavy chemical products, especially sodium and sulphuric acid, should be classed as especially important. In these fields plants which did not belong to Farben disposed of a considerable production. What I said in Exhibit No. 705 is to be understood with this restriction.

Q. Any further correction, addition or modification, witness?

A. No. No further additions or changes.

DR. SPEECHER: Cross-examination.

CROSS EXAMINATION

BY DR. REINHARTS (For Dr. Buete-fisch):

Q. Dr. Hulert, would you please be kind enough to look again at your first affidavit HI 9477. This, Your Honors, is Exhibit No 513, English Document Book 26, page 30; German Book 26, page 56. Dr. Hulert, this affidavit deals with the contract guaranteeing gasoline between the German Reich and Farben, the history of its origin and its effects.

But, before you made this affidavit did you ever compound an affidavit about the same sort of questions?

A. I gave an affidavit to the defense which was somewhat in the same vein.

J. Is it true that that statement which you made a short while treats the questions a little more in detail before you made the present affidavit before you now.

A. Yes.

MR. EXAMINER: Mr. President, I think it is important that this more detailed affidavit which the witness made in his affidavit for the defense should be submitted or read to the Tribunal. Therefore, I should like to ask the Tribunal to decide whether it will be necessary for reasons of procedure to read and treat this affidavit of the witness, that is, whether I should put this entire affidavit to the witness and have its correctness confirmed or whether I should bring this affidavit later when the defendant presents his case. If the latter should be done then I can abbreviate the cross examination and ask a few very short questions now.

THE PRESIDENT: It is the view of the Tribunal that if it is shown that the witness had made other affidavits upon the same general subject as the affidavit offered by the Prosecution about which he is now being cross-examined it is proper for the defendant to show that fact. The Tribunal is further of the view that counsel for the defense might offer, as a part of his cross examination, if he so sees fit, the other affidavit about which the witness has been interrogated. However, the defense should follow the same practice which the Prosecution has been required to follow with respect to reading the affidavit. The affidavit may be made a part of the record and we shall permit counsel for the defense to briefly summarize or call our attention to its general contents or point out any particular part that he thinks should have our notice through the record. If counsel

desires to do so he may have the affidavit to which he refers marked as Exhibit 1 of his client and filed as a part of the record.

DR. REINTGES: Mr. President, may I then offer as Exhibit No. 1 for Dr. Buetefisch this affidavit which the witness made.

THE PRESIDENT: Just to keep the record straight the Tribunal suggests that you send the affidavit to the witness and ask him if he made that affidavit and then we will admit it.

BY THE WITNESS: Yes, that is my affidavit.

BY DR. REINTGES: Perhaps it would be expedient to have the witness keep the affidavit until the cross-examination is finished.

THE PRESIDENT: So that we understand the record, you are identifying that as Exhibit 1 of the Defendant Buetefisch and you are asking that it be received in evidence?

DR. REINTGES: Yes, Mr. President.

THE PRESIDENT: It is so ordered.

BY DR. REINTGES:

Q. Dr. Malert, as can be seen from one of your affidavits you were in charge on one of the Departments in the Reich Ministry of Economics. What department was that?

A. Until 1933 and 1934 I was in charge of a Department of Chemistry which was also in charge of mineral oils in the beginning of 1933 on 1934; the mineral oils were made an independent department and I was charged with the direction of the department mineral oils and I did no longer direct the Department for Chemistry. I then retained the department mineral oils until 1938 and then turned it over once again to direct the Department of Chemistry.

Q. Is it true that when the gasoline contract was being negotiated between the Reich and Farben you were the decisive consultant in the Reich Ministry of Economy?

A. Yes.

Q. Is it furthermore correct that also during the first years

of the operation of the contract that is, until 1938, you were the decisive consultant for these matters?

A. Yes.

Q. Is it true, according to your recollection Dr. Mulert, that the consultations between the Reich Ministry of Economy and Farben, about a probable guarantee contract for gasoline took place about the beginning of 1932?

A. I am not able to tell you the exact date. In spite of all efforts. I can no longer reconstruct this matter completely to answer the question with yes or no. According to what I remember it must have been at the beginning of 1932, at the latest in the middle of 1932.

Q. In your affidavit MI 9477 you say that the German mineral oil production at home was very low and quite inadequate for the rapidly growing demand in Germany so that Germany had to rely mainly on the import of finished products from abroad. Then you say, and I quote: "The cost of foreign exchange which were to be used for this were among the most important." Is that to be construed to mean that these foreign exchange situation was the most important reason for the government in 1932 to begin negotiations with Farben about the gasoline contract?

A. It was one of the essential reasons. The other essential reason was the fact that Germany's dependence on foreign countries in fuel oils was considered too pressing quite apart from the foreign currency problem.

Q. When the negotiations started?

A. Yes.

Q. Dr. Mulert, do you remember that this difficult estimation with regard to foreign exchange existed already since 1930 and at that time already it caused a control of foreign exchange to be instituted?

A. Yes.

Q. In connection with this you point out in your affidavit that a tariff for imports of gasoline existed in Germany and that this tariff had the nature of a protective tariff for the synthetic gasoline being produced in Germany at the time. Is it correct, Dr. Hilbert, that this tariff always remained in existence in the subsequent period and that from 1931 to 1937 it was not abrogated or changed and that after 1937 it was increased?

A. The tariff was never lowered and the increases of the tariff which were repeatedly made I do not remember at the moment.

Q. It is not necessary.

A. That what you say is true.

Q. Dr. Hilbert, you have just stated that as far as you remember the negotiations for the contract began early in 1932, at the latest middle 1932. The contract itself was signed in December 1933 as you know and the negotiations then took a comparative long period of time. The National Socialist seizure of power occurred during that time. In the time after the Nazis took power did your superiors or National Socialists agencies or persons tell you anything about the fact that some promises or assurances were made by Hitler or his Party to Farben in reference to gasoline hydrogenation and that you had to take that into account?

A. No sir.

Q. Is it true, Dr. Hilbert, that the negotiations for the contract were essentially carried for Farben by Dr. E. R. Fischer?

A. From the beginning of 1933 on I can confirm that. Before 1933 I no longer remember.

Q. Did Dr. Fischer or some other representative of Farben refer to an alleged assurance or promise of Hitler's and his Party in these negotiations?

A. No.

Q In your affidavit you furthermore state what commercial and economic aspects from the part of the Reich on one hand and Farben on the other, were favoring factors for the conclusion of this agreement. Is it true that as far as you know the situation both parties were motivated, only by these economic and commercial aspects for carrying on these negotiations and for the eventual conclusion of this contract?

A During the entire time of negotiations I was of that impression at any rate.

Q Dr. Mulert, you will know from your own experience that the Reich was very careful to make sure in the negotiation and conclusion of such agreements that its own financial and other interests were being taken into account as best as possible and from your official work with Farben you will furthermore know that Farben also strove to represent and safeguard its interests to the best of their ability. Is it true, Dr. Mulert, that the Reich and Farben also in the present case with great tenacity and thoroughness endeavored to assert their respective interests?

A Yes, that is the reason why these negotiations took such a long time.

Q In your affidavit you summarize the contents of the agreement and say that the Reich agreed to cover a possible deficit which might arise from the synthetic production of gasoline by Farben and that on the other hand Farben would have to turn over excesses from synthetic production to the Reich. Do you know this contract was very unfavorable for Farben?

A Yes.

Q Is it true that the Reich Ministry of Economics and you personally considered this contract with Farben as one of the most favorable for the Reich which you ever concluded?

A I would not use the word "advantageous" here. It was not the aim of such contracts to make money for the Reich. If larger amounts were made available to the Reich it was a fact which we did not count on

in the beginning ourselves, just as little as the Farben people.

Q But you considered it one of your best contracts, didn't you?

A I would have had no misgivings on my part of transfer that contract to a more sound basis for Farben because I wanted to change it.

Q Thank you very much. You said just now, that is, you implied just now- is it correct that Farben tried to change this contract and to abrogate it?

A I cannot give you any detailed statements about that. I talked about this occasionally with Dr. Fischer but I remember no longer whether actual negotiations were entered into about that.

Q Do you remember that Farben expressed the wish to change this contract?

A I don't know whether that happened and I don't know whether that was officially requested in writing.

Q You say official requested but they talked about it. Didn't you?

A I discussed this with Dr. Fischer in the sense you indicate.

Q You mentioned in your affidavit that at a later time quantity contracts were concluded with other hydrogenation plants by the Reich Ministry of Economics. Were these contracts more unfavorable to the other hydrogenation works than the I.G. Farben or were they more favorable?

A They were more favorable for the other hydrogenation plants needed protection more than did Farben. Generally they had a higher cost of production and they on their own had not all the experiences which Farben was able to work with. They did not have the large staff which Farben had.

Q That was the reason, but the contract itself, was the wording of the contract more favorable?

A No, the wording and the text was the same; protection against losses and on the other side the turning over of excesses to the Reich.

CROSS EXAMINATION

BY DR. THEOBALD(for Dr. Buergin):

Q Witness, I should like to revert to Exhibit 705, Document NI 9476 in the English Book, volume 37, page 17, in the German Book volume 37, page 20. Under paragraph 2 you say "the German industry and the artificial fibre industry were entirely or almost entirely dependant on Farben." Is that a misprint?

A Yes, a few words have been omitted. May I--

Q Please---

MR. SPEYER: May I interrupt. The witness has submitted to me the fact that the copy which is the reproduction and not the original which is in evidence had one line omitted, which is a copying error and I have just told Dr. Gierlich that I have instructed Dr. Chermatz of our staff to see that defense counsel is submitted a correct copy in the German and there is nothing wrong with the translation and nothing wrong with the original in evidence.

THE PRESIDENT: Very well.

DR. THEOBALD: Evidently it was a misprint but the correction which Mr. Sprecher has given to me changes nothing in the statement, that is to say, that the artificial fiber industry was almost entirely dependent on Farben. I.G. was to a great extent dominating in the light metal industry. It was the sole producer of synthetic rubber and so on. In the third paragraph you say that from the statements made the almost exclusive dependence of the chemical and non-chemical war industry on Farben results, excluding the armament industry proper; for the production of armed vehicles magnesium was used, and a further quotation "in the airplanes Farben magnesium was used to a large extent" and so on. I should now like to ask you what was the position of the artificial fibre industry of which you say that it was entirely or almost entirely dependant on Farben, what products of artificial fibre industry do you want to apply this to? Please explain that to me.

A It refers to the condition of about the beginning of the war.

Q What products, what actual implements are necessary, and for

what products is artificial fibre necessary. Do you know what is necessary to produce artificial fibres? Can you give us the raw materials and the ingredients.

A Sulphur carbon, among others.

Q Did you have any sulphur-carbon? Did Farben sell any carbon-sulphur?

A As far as I know to a certain extent but I can't tell you about it now.

Q You can't give me the extent to which this material was furnished by I./G. Farben?

A No.

Q It was really very low but if you don't know it then of course we can't discuss it.

A Caustic-soda.

Q To what extent did Farben produce and furnish caustic soda?

A I cannot give you the percentage. I think it is about 60 per cent.

Q. To what extent did Farben produce artificial fibers?

A. I cannot give you the percentage.

Q. What share in German production?

A. I believe that at the end it sank a little bit but at that time it was rather high.

Q. If you say "rather high", what do you mean? What was the highest level ever reached and with reference to '39? What do you know about that year?

A. It is very difficult to estimate, I have to estimate without being able to give you any figures.

Q. When you made this affidavit then you probably also were not able to estimate with any amount of accuracy?

A. No, I had no figures, with the exception of the material that I had submitted to you here and which was passed on, figures which Dr. Suhr had given me.

Q. The figures are well known. They will be produced. I do not want to put them to you now. In order to refer it to the proper time, you are actually quite in error, the fact that the fiber industry depended entirely or almost entirely on Farben, you made that on the basis of your feeling and on the basis of an inaccurate recollection, and one can say that you actually made this affidavit without any official document according to inaccurate recollection.

A. Yes, that can be said.

Q. Then you say that Farben predominated in the light metal industry to a large extent, can you give any ratio between the production of light metals by Farben and with the rest of Germany?

A. Aluminum was rather low.

Q. What was Farben's share in the aluminum production?

A. I can only give you an estimate, I think about twenty per-cent. I beg your pardon, I think about twenty per-cent was aluminum and with magnesium the share was almost complete, 90 per-cent.

Q. You are right about the 90 per-cent, but with aluminum it was

much lower, and as an exception perhaps I may be permitted to put to you that it was 7 or 8 per-cent. Can you please tell me what was the relation or proportion of aluminum to magnesium of the production in all countries which produced light metals, what was the relation of magnesium to the amount of aluminum produced?

A. I cannot give you any percentages but the ratio was very low.

Q. Well, if Farben produced 88 or 90 per-cent of magnesium which was used to a very small extent as compared to aluminum and if Farben got out only 7 or 8 per-cent of the entire German production of aluminum, what was the entire share of Farben in light metal production?

A. Quantitatively, in the ratio which you have just given me it would have to be about - less than twenty per-cent, I would estimate.

Q. It was indeed lower than twenty per-cent. I should like to ask you further about paragraph 3 where you say "for the production of tanks and armored vehicles and guns magnesium was used which was almost exclusively produced by Farben. In airplanes Farben magnesium was used to a large extent." Can you please tell me where magnesium parts were used in tanks? Can you give me the weight of a modern tank, the most recent tank type?

A. No, I can't give it to you.

Q. It was often mentioned in the newspapers. Do you know positively that any spot in the tank magnesium is being employed?

A. I can only tell you that according to my feeling this statement was not based on positive knowledge or figures but only upon my recollection.

Q. Can you tell me where in armored vehicles magnesium is used?

A. That is the same thing as in the tanks, the same answer.

Q. Can you tell me what part of airplanes are manufactured from magnesium?

A. I cannot give you a definite answer, only according to my general recollection that magnesium is being used for airplanes.

Q. I see, but you admit that this representation which you have

made is rather apodictic, you say for the production of tanks, armored vehicles and guns magnesium was used and also in airplanes to a large extent. That looks to a unbiased reader who doesn't know who you are as if that is a result of a thorough study of definite figures?

THE PRESIDENT: If counsel pleases, that is more or less of an argument with the witness, that is an argument with the witness. He has said he has no definite information upon which to base his answer and it is a matter of opinion.

BY DR. THEOBALD:

Q. Only one question with reference to the paragraph "guns", can you tell me what parts of guns are manufactured from magnesium?

A. The same answer as the tanks.

BY DR. VON KELLER: For the defendant, Von Schnitzler.

Q. Witness, under No. 2 of the same affidavit which my predecessor just treated, you speak of the fact that Farben predominated certain spheres and later you say that Farben was dependent, that others were dependent upon Farben, is it true that you want to underline by this the nature of the inter-dependence of all factors in a modern economy, and the large sphere of Farben's influence in general or perhaps may I define my question a little more, did you mean to express a moral judgement?

A. No.

Q. May I understand your additional statement which you made a little while ago to the meaning of the words "German preparations for War", according to which you are not able to say anything about the subjective part of the Farben, and may I apply that also to these two expressions?

A. Yes.

Q. Under the same paragraph No. 2 you say that Farben was the sole producer of synthetic fuel?

A. Synthesis today is the Fischer Tropsch process which was independent of Farben. The hydrogenation process is the Farben process,

and this process was used, beside Farben, also by licenses.

Q. That is to say there existed other synthetic processes. Do you know the Putt process?

A. Yes.

Q. Under No. 3 you speak again of the employment of synthetic gasoline, one might assume according to the formulation of paragraph 3 that the vehicles of war, that is the 7th line in the German text, one might assume that war vehicles were propelled only by Farben gasoline. You have already stated other synthetic processes existed. Wasn't also natural petroleum available?

A. The natural petroleum was very small in quantity.

Q. But there were sources which had already been exploited in Germany?

A. Yes.

Q. And in Roumania?

A. Yes.

Q. Was there an ever increasing part played by those sources in Zistersdorf which are now again becoming important in international negotiations?

A. That is true during the latter part of my time.

DR. VON KELLER: Thank you very much. I have no further questions.

BY DR. REINZELLER: For the defendant, Dr. Wurster:

Q. Witness, I have a few short questions in regard to your affidavit, NI 9478, which is Exhibit 671 in the English text book 31, page 25, the German text 31, page 26, witness do you have this affidavit?

A. Yes.

Q. Under No. 2, the second sentence of this affidavit, you say that the "Wifo" was founded for the purpose of constructing new factories for production of sulphuric and nitric acid; two sentences further down you say that as far as you know all of these plants were operated by Farben. My question refers specifically to the sphere of sulphuric acid which is the field in which Dr. Wurster is an expert; can you name the

plants that this Wifo created and which were devoted to the production of sulphuric acid?

A. I cannot give you such a list of the plants, Doeberitz, it is probable that I may be mistaken. As far as I remember there were about six plants.

Q. Witness, if I put to you that Wifo only erected plants for the concentration of sulphuric acid, and that only in three cases, would you consider it true or not?

A. Yes.

Q. Thank you, I have no further questions.

THE PRESIDENT: Is there any further interrogation of the witness by defense counsel? Any re-examination by the Prosecution?

BY MR. SPEECHER:

Q. One question, if your Honors please. Witness, I had not had a copy of your prior affidavit for knowing about it, and, therefore, I am in no position to read it at the present time since I take it Buete fish Exhibit No. 1 is in the German language and we have no copy, but I would like only to ask you one question even though I do not know what is in the Buete fish affidavit No. 1. Would you say there are any conflicts between that document you hold in your hand and the affidavit which you later gave to the Prosecution?

A. I have looked at it once more to find that out and I am of the opinion that there are no differences.

THE PRESIDENT: Now, may the Tribunal make inquiry for its own information. Perhaps the Prosecution is in a better position to give us this fact. By what process of administration will the Buete fish Exhibits No. 1 translated and made available to the Prosecution and to the members of the Tribunal?

MR. SPEECHER: I think I really should defer to some of the lawyers from the opposition on that.

THE PRESIDENT: I only made the remark I did because I took it that perhaps counsel for the Prosecution was more familiar with the

machinery that exists pertaining to such matters.

MR. SPRECHER: I am sorry. I have to beg ignorance of this specific problem, when this affidavit was brought up at the last moment during the Prosecution's questioning I do not know the procedure. I know the procedure later on but in this case I do not know it.

THE PRESIDENT: Then in this case the Tribunal will delegate the German defense counsel and the counsel who is now speaking as delegates to see that this document is duly translated and copies are furnished to the Tribunal for our files. You may call your next witness.

MR. SPRECHER: The Prosecution calls as it's next witness Dr. Felix Ehrmann.

THE PRESIDENT: The record may show that the witness Mulert is excused from the witness stand and the Marshal is directed to escort the next witness to the box.

Will the witness rise and hold up his right hand?

Will the witness rise and hold up his right hand.

Now state his name and say "I".

THE WITNESS:
I, Felix Ehrmann -

THE PRESIDENT: Swear by God the Almighty and Omniscient that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

The witness may be seated.

The Prosecution may proceed with it's examination.

DIRECT EXAMINATION

BY MR. SPRECHER:

Before I proceed, Your Honor, there are - the defense counsel has just pointed out to me an error in the memorandum of the 23 of September 1947 which the Prosecution made and furnished to the Tribunal and defense counsel, and that error comes under the listing with respect to this witness, and if you will go to the next entry, reference is made to NI 10595, that is not an affidavit of Ehrmann but rather of Ehmman -

E h n a n n - and if you go, your Honors, to the -

THE PRESIDENT: The Tribunal is laboring under a volume of documents and perhaps it would facilitate matters if the Prosecution would again state to us and for the record the documents and read the page or book where they may be found about which this witness is to be interrogated.

BY MR. SPEECHER:

Q. Yes, and Mr. Witness, will you just check through to be sure you have the same documents as I announce them for the Tribunal and defense counsel:

NI 9086 is Prosecution Exhibit 70 and that is in your document book 4, English page 72, and German page 89.

The next is Exhibit 105, NI 4953, which is in volume 5, English 105, German 115, and the next is

Exhibit 464, NI 4952, English 178.

I am sorry I did not give you the document book - 21, English 178 - I do not have the - just a second - German volume 22, page 44.

The next is Exhibit 500, NI 4954, which is in the English document Book 24, at page 16, and in the German document book 22 at page 47.

The next is Exhibit 504, NI 4929, English document book 24, page 99, German document book 22, page 99.

The last is Exhibit 766, NI 4930, which is in document book 41, at the English page 79, and at the German page 139.

Q. Mr. Witness, do you have copies of all of these affidavits before you?

A. Yes.

Q. Would you state your full name for the record?

A. Felix Ehrmann.

Q. Your present address?

A. Bad Eckenstaedt, District of Wolfenbuettel.

Q. And what is your present position?

A. I am chief manager of the Economic Association of the Chemical

Industry in the British Area of Control.

Q. What was your occupation before the collapse of Germany in 1945?

A. I was Deputy Chief Manager of the Economic Group Chemical Industries and Deputy of the Reich Plenipotentiary for Chemical Industry.

Q. And where was your address at that time, Dr. Ehrmann?

A. Berlin, Gross Admiral Prinz Heinrich Strasse, 6.

Q. Mr. Witness, approximately when did you first start to deal with representatives of our office concerning the investigation of this case? Was it about the early part of this year or the spring?

A. In February.

Q. And at that time were you warned about the penalty for perjury and the obligation to tell the truth?

A. Yes.

Q. Did you discuss these affidavits with me either yesterday and to some extent today with respect to any modifications or additions which you thought necessary after the passage of the time since you had executed these affidavits?

A. Yesterday.

Q. Would you take the first affidavit, which is NI 9086, our Exhibit 70. Do you have any additions or corrections which you would like to make to this affidavit?

A. Only the correction of a typing mistake in the German text.

Q. Just point it out, please.

A. It is paragraph I, instead of "members of the Reich Bund", it should be "members of the Reich Verband."

Q. Then would you proceed?

Your Honors, there is no difference in the English.

Will you then proceed, Mr. Witness, to NI 4953, that is Exhibit 105.

Now there you indicated to me several modifications or additions that you would like to make. May I lead you on this point and then if I should omit any I will ask you to come back to them. You have a correction in the second full paragraph on the first page, is that correct?

A Yes, I stated that the Reich Office for Statistics was also not authorized to carry out investigations. I don't know anymore whether that is true. I would rather assume that the Reich Office was indeed authorized. Furthermore, I stated that for the said three agencies, Reich Agency Economic Group and the Reich Office there was no possibility to force the firms to give any information. I must say, additionally, to this that this did apply to the Economic Group.

No further changes in this paragraph.

Q Proceed to your next change then. You seem to know where they are.

A In the next paragraph I stated that Farben was quite ready to give information about its productive capacity, and so on. The expression that they were quite ready only was to mean that they did not refuse to give any such information.

Q Your next correction or addition.

A In the paragraph after the next, at the end of page 1, it says that the investigations and preparatory work were carried out by Dr. Ungewitter, Dr. Dietrich and Dr. Hagert on the part of the Reich Office for Chemistry. It should say that Reich agency and/or Reich group—not "and".

Q The next correction, I believe, is on page 2 of the original, and also on page 2 of the English.

A Paragraph 2: I listed a number of gentlemen from Farben who were carrying out these negotiations, and I have to say in this connection that these negotiations were carried out essentially by representatives of these gentlemen and/or their associates.

Q Is the following summary correct then? You talked of the principals as if they were always in the negotiations, but most of them, the deputies of these gentlemen were in the negotiations, is that right?

A Yes.

Q Do you have any other comment to that affidavit?

A Only an additional statement to page 1, paragraph 2, where I say that there was no possibility to coerce these firms-- Excuse me, that is in paragraph 3; that is, once again the information which was quite readily given. It would not have been of any use to Farben to refuse to give information to us because they would have been approached in that case by the supreme competent Reich agency. That is to say, especially by the Reich Ministry of Economics.

Q If you have nothing further to add, will you go to your next affidavit, NI-4952, which is Exhibit 4647. There you talk about the Krauch office. Do you have any additions or modifications?

A None.

Q The next document then is NI-5953, Exhibit 499. I believe you have several alterations. Will you describe the paragraph number so that both the Court and the Defense counsel can follow you?

A Page 2, Number 5. It was stated there that Dr. ter Meer in particular used his position as Deputy Chief of the Economic Group to gain advantage for his firm in the procurement of manpower. This statement is not precise as far as it must be generalized, as such. The name of the gentleman in question was only emphasized at the time because he was being interrogated.

I have the following to say in this connection. This statement was based on statements of the consultant for labor commitment in the Economic Group Chemical Industry, Dr. Schroeder.

Q Did you work with him in the same office, more or less?

A Yes, he was an associate of the Economic Group.

Q Now I am not quite clear as to what you mean to change now. You have said that it is not quite fair to emphasize that Dr. ter Meer used his position... What did you want to say?

A The next of the second paragraph--that is, rather, the second sentence in No. 5--should read as follows: "As far as I remember from statements at the time of Dr. Schroeder, the representatives of Farben who were in a position to use Dr. ter Meer's agency seemed to

use their position to gain advantage in the procurement of foreign laborers for their own firm."

Q And what position--just to make it clear--did Dr. ter Meer have in the Wirtschaftsgruppe during the early years of the war?

A He was Deputy Chief. I should like to say that I do not remember quite definitely whether this applies also to the first war years.

Q Now, do you have a further correction in that same line, later on, where again you use the name "ter Meer" alone?

A On page 3, No. 6, the same applies. In the last sentence this name is mentioned, and it should read, instead of ter Meer--it should read "Farben."

Q Now, I believe you have had some general comments to make about the affidavit.

A Concerning page 1, paragraph 2, I have the following to say: The tendency of the Plenipotentiary for Chemistry to extend his competence resulted also for technical reasons because to care for a particular field in chemistry, as such, is only possible as a whole--but not in part. Furthermore, to page 2, paragraph 5, the same problem: the same extreme use of the Economic Group was not only made by Farben but also by the representatives of other firms who had any position with the Wirtschaftsgruppe. The same paragraph 5, on page 2, I should say that Farben, with its over-all production program, was very easily in a position to give reasons for their extremely large requirements of manpower.

Q Anything further, Mr. Witness, on that affidavit?

A No.

Q Would you go then to NI-4954, which is Prosecution Exhibit 500.

MR. SPRECHER: That is Book 24, Your Honors, English page 16, German Book 22, page 47.

BY MR. SPRECHER:

Q Do you have any additions or corrections or modifications to that affidavit, Dr. Ehrmann?

A No, not here.

Q Will you pass then to the next document, NI-4929, Prosecution Exhibit 544?

A None here either.

Q And then to the last document, NI-4930, Prosecution Exhibit 766? Any comments?

A A general statement. The procurement of the raw materials credit was very easily arrived by Farben with its extensive production program, practically with no effort at all.

Q Did I understand you to say "raw material credits"?

A Credits of raw materials for the import of foreign raw materials.

Q And did you say why that was?

A Farben had a very extensive and important production program, and, therefore, it may have seemed important to the Reich Ministry of Economics to make available the imports of raw materials to Farben and facilitate them as regards the necessary foreign exchange.

Q Do you have anything further?

A No.

MR. SPRECHER: The Defense may cross examine.

THE PRESIDENT: The Tribunal will rise for its afternoon recess.

(A recess was taken.)

JUDGE SHAKE: The defense may cross examine.

CROSS EXAMINATION

BY DR. GIERLICH: (Counsel for Dr. Schmitz)

Q Witness, I only have a few questions to put to you in connection with Document NI 4930, exhibit No. 766, to be found in Document book 41, German page 139. I am afraid I do not know the English page number.

THE PRESIDENT: Page 79.

BY DR. GIERLICH:

Q Witness, in this affidavit you are saying that the I. G. carried out a decisive preference, or rather received a decisive preference compared to all other firms, through receiving a special raw material credit. Who granted this raw material credit to the I.G.?

A This was the Reich Ministry of Economics or the Reich office for foreign currency.

Q I think you misunderstand me. I pay particular significance to the word, "granted". What was the office which put this foreign currency at the disposal of the I.G.?

A My answer merely referred to the legal, technical form of approval.

Q In other words, what you wanted to say, was that they received a special raw material credit approval. The credit as such could not be granted by foreign banks?

A That's correct.

Q Witness do you know who placed this foreign currency at the disposal of the I.G.?

A That was the Reich Ministry of Economics at the beginning; later it was the supervisory office for chemistry.

Q Witness, do you know the extent of this raw material credit grant in detail?

A I do not remember it in detail.

Q Then let me put something to you in order to refresh your memory. Do you know that this general raw material credit grant actually meant that

foreign currency value, as in the case of all German industry, depended upon the approval of the authorities, and that the only difference was that since the I.G. has explained its intended use of these valuta in a memorandum which they submitted; the control of these valuta was not carried out before the credits were used but afterwards?

A Yes.

Q Do you know, furthermore, witness, that this raw material credit procedure after it had been tested and had been found to be acceptable in the case of I.G. held true for the entire German industry, and a circular to that effect was issued; after a relatively short period of time, there was no longer any preferential position of the I. G.?

A That's right.

Q In view of what you have just said, do you actually believe that in this alleviation which was made to the I. G. because of their production, we are concerned with a decisive preference as compared to all other German industry, or do you believe that you would have to modify your testimony in view of the statements we just made?

A As long as this procedure held valid, the preference, as you state correctly, consisted only in a procedural, technical alleviation of business, but this alleviation made it possible that imports could be carried on quicker and in a more generous manner, quicker than if they had to be applied for individually.

Q You are quite correct, witness. Witness, this was the sense of those proposals made by the I. G. which were then used generally. Finally, witness, you are saying in this affidavit that at first you received no knowledge of this credit at all, neither about its extent nor about the list of goods to which it referred. Wasn't the reason for this fact, at the time raw material credits were introduced for the I.G., no rules generally valid had been developed, and there were no directives available which would instruct the subordinated offices of the Reich Ministry of Economics with regard to this business?

A If I can survey the matter properly, the reason for such a general directive was that goods had to be regulated as they were imported. That took place in September of 1934. The notification and inclusion of these offices followed much later.

Q If any of these offices had failed to inform the supervisory office about the details of these rules, wasn't it the I.G. or the Reich Ministry of Economics who would then have to have had the obligation to inform the subordinated offices about these rules, and indicate details about the technical side of the work?

A The latter part of your statement is true.

Q Thank you witness. And now one final question. You mentioned Dr. Landwehr in your affidavit, who was the responsible man in giving this grant. Do you believe that when giving this approval, Dr. Landwehr at any time thought that with this new regulation, you would create a special preferential position for the I.G.? And did he think that this regulation would serve objective interests? I think this is the only aspect in which I can see that there is any relevancy in this document.

A It is very difficult for me to answer this question because I do not know what Dr. Landwehr's attitude toward this problem was.

Q In that case, let me put it to you, that Dr. Landwehr, after the 20th of July, 1934, was arrested and sentenced to a prison term of many years because he took Dr. Goerdeler, one of the principals, into hiding after the plot?

A I know of that.

Q Well perhaps taking into consideration this fact, you will be able to answer my question.

A I took all of the facts into consideration which seemed to me to be relevant in this connection. I can merely repeat that it is difficult for me to answer this question clearly in all points.

Q Well if you do not know of the details, we can forego the discussion of this question.

Thank you, witness, I have no further questions, Mr. President.

CROSS EXAMINATION

OF FELIX EHRLICH

BY DR. BOETTCHER, counsel for the defendant Krauch:

Q Witness, would you please be good enough to take hold of your affidavit, NI 4953, English page 105, German page 115; I am interested in paragraph 3 of this affidavit. Did I understand you to say before that you were supplementing this paragraph 3 by saying that a refusal of information would not have been of any benefit for the I. G. because upon request of the Ministry of Economics they would have had to surrender such information?

A Yes, that's right.

Q Witness do you know that this obligation to give information is based upon a certain legal directive?

A Yes.

Q Are you thinking in that case about the so-called ordinance for the compulsory rendering of information, dated the 13th of July, 1923?

A Yes, that's right.

Q Do you know that a refusal to give information had money and prison terms as its consequence in this ordinance?

A Yes, that's right.

Q Thank you.

In that case I have no further questions in connection with this paragraph.

Would you now turn to Document NI 4952, volume 21, page 178 of the English, German Volume 22, page 42? Under paragraph 3 of this affidavit you are saying, and I quote: "90 per cent of these honorary employees were representatives of the IG"?

Does this figure base itself upon an exact survey of the individual gentlemen in honorary offices, or is this merely an estimate on your part?

A This is an estimate which was based upon the impressions which I gained from negotiations carried on within the office as well as from negotiations of other agencies.

Q Let me ask you whether it is true that other chemical industries, apart from the I. G. had expert representatives whom they sent into the four-year plan office in an honorary capacity?

A Yes, I pointed that out in the very same affidavit.

Q Do you know that Professor Martin in Ruhr Chemistry, Professor Mueller of Krupp, Director Winkler of Continental Oil Company; in the Haniel concern, there was Dr. Bartsch; Dr. Goll Hofer of Brown-Boveri, and a number of other very important firms have sent personalities into the 4-year plan in an honorary capacity?

A With reference to the three firms which you just cited, Krupp, Continental Oil and Brown-Boveri, I do not remember that fact. With reference to the other firms which you quoted, I am in agreement with you.

Q Do you think that an estimate would be more correct if you said that the gentlemen sent by the I. G. comprised much less than 90 per cent; that it would be more true if you said 60 per cent?

A Counsel, at the moment I have no points at all which would move me to correct my estimate.

DR. BOETTCHER: Thank you. No further questions.

CROSS EXAMINATION OF

FELIX EHSMANN

BY DR. TIERK (Counsel for Dr. ter Meer):

Q Dr. Ehrmann, I have a few questions connected with your affidavit, NI 5953, which is Exhibit No. 499, to be found in the English document book on page 22, and on page 31 of the German Document Book. Dr. Ehrmann, under paragraph 5 you state, "Dr. Fritz ter Meer, member of the Vorstand of the I.G. Farben Industry A. G. from 1942 to 1943 until 1945 was deputy head of the Economic Group Chemical Industry."

Dr. Ehrmann, do you know that the formation of the presiding board of the Economic Group Chemical Industry goes back to a suggestion by President Kehrle?

A Yes.

Q Dr. Ehrmann, can you remember that the newly formed presiding board met only around the 18th of March, 1943?

A I cannot specify that so exactly.

Q But you think that may be the correct time?

A Yes.

Q. Dr. Ehrmann, do you know that Dr. ter Meer already, during the middle of September, 1943, left for Italy and, as from that time, did not participate in any conference of the Economic Group and no longer appeared there?

A. I cannot specify this date but I can tell you that it was end of 1943 or beginning of 1944.

Q. Dr. Ehrmann, in paragraph 7 of your affidavit you are saying that the Economic Group in the year 1944 was sending a number of gentlemen to Italy in order to recruit Italian workers for Germany.

Dr. Ehrmann, do you know that this recruiting of Italian workers was contradicted severely by Dr. ter Meer who at that time was residing in Italy?

A. I do not remember that.

DR. VON KELLER: Dr. von Keller, counsel for the defendant von Schnitzler.

BY DR. VON KELLER:

Q. Witness, you said that in fact you were the deputy business manager of the Economic Group Chemistry. If I may say so, you were Dr. Ungewitter's right hand?

A. Yes, after the year 1942.

Q. But Dr. Ungewitter has already regarded you before that date as his first assistant.

A. Yes, after the year 1932.

Q. Was the relationship between you and Dr. Ungewitter a confidential one?

A. That held true until after the last months of the war.

Q. Apart from this very last period do you believe that Dr. Ungewitter kept you informed about the most important matters as they were of decisive importance for the chemical industry?

A. It corresponded with his general attitude to part with such information not only towards me but also towards all his other closer

associates. He did that, however, to a very different degree in each case. Sometimes he was very complete and told us about matters in great detail. At other times he did not give us any information at all.

Q. Let me now ask you about a subject which you, witness, dealt with in your affidavit 4954. This is Exhibit 500 in German Document Book 22, page 47; English Document Book 24, page 16.

Witness, before the actual outbreak of the war, that is to say, before the first of September, 1939, did you, personally, have concrete official information to the effect that an aggressive war was a firmly decided matter and that hostilities would actually start at a certain time? Let me specify my question once more: concrete official information.

A. No.

Q. Now, Dr. Ehrmann, were you present during the conferences which, according to your affidavit, took place in the summer of 1939 between Dr. Ungewitter and the defendant von Schmitzler? I am talking about the conferences which you deal with in your affidavit.

A. These conferences were brought back to my mind through a minute of these conferences which originated from Mr. von Schmitzler and was submitted to me by the Prosecution.

Q. You, yourself, witness, therefore, did not remember these conferences before this matter was put to you by the Prosecution?

A. Understandably not, because such discussions were very frequent at that time and it is very difficult to know what took place at a given time.

Q. In that case you do not remember that in the course of these discussions Dr. Ungewitter gave you concrete official information, according to which an aggressive war was a firmly decided event and that hostilities were to start at a certain period of time? I repeat: concrete official information. Do you remember that?

A. I can say with certainty that up to the outbreak of the war he did not transmit any official information of the sort.

Q. Now, witness, in order to clarify this subject somewhat, let me draw your attention to the second paragraph of your affidavit which I just mentioned. There you have stated that Dr. Ungewitter repeatedly made utterances to the effect that Hitler was going to march into Poland. Is it correct if I say in this connection that these utterances, as far as you could survey them, were only personal fears and combinations?

A. Yes.

Q. In another passage of your affidavit, witness, you said something else and I want to put the following question to you. I am referring to the one but last paragraph. I quote: "In connection with the discussions about the imminent war, Dr. Ungewitter said, 'Can I interpret this sentence by saying that the possibly imminent war was near?'"

A. Yes.

Q. Then in that case too we are merely concerned with the assumption and personal fear with no concrete official knowledge?

A. Yes.

Q. In your affidavit, you go on to deal with the question about the removal of plants from Ludwigshafen and Oppau and the installations to be conducted in those two plants. Am I correct in assuming that we are concerned with precautionary measures for an emergency?

A. Yes.

Q. Was the removal of the plants from Ludwigshafen and Oppau into inner Germany, ever carried out?

A. As far as I know it was not.

Q. Do you believe that the opposition to a transfer of these plants or the prevention of the transfer of these plants was initiated mainly by the gentlemen of the I.G. Farben without the authorities opposing such a transfer?

A. As far as I know, we are exclusively concerned with an opposition on the part of the gentlemen of the I.G.

DR. VON KELLER: Thank you, witness. I have no further questions.

DR. VON METZLER: Dr. von Metzler, counsel for the defendant
Raefliger.

BY DR. VON METZLER:

Q. Dr. Ehrmann, may I ask you to get hold of your affidavit, NL-4953,
Exhibit 105, Volume V, English page 105, German, page 115. In this
affidavit you are talking about negotiations regarding the drawing up
of so-called mob plans which was discussed on the part of the I.G. Farben
with Reich Office Chemistry and the Economic Group Chemical Industry.
Let me put one preliminary question to you.

In the case of the Reich Office Chemistry or Reich Economic Group
Chemistry were other questions also discussed which had nothing to
do with mob plans?

A. Yes. The other questions concerned the real sphere of work of
these offices.

Q. Dr. Ehrmann, on page 2 of the English text of the affidavit, in
your second paragraph, that is, the last paragraph on page 1 in the
German text, you are discussing certain conferences about mob plans
during which representatives of I.G. Farben attended.

When, according to your knowledge, did these conferences begin? In
what year?

A. That must have been in the year of 1934 at least.

Q. Dr. Ehrmann, I am putting this question to you because, in the
first paragraph of your affidavit, that is on page 1, you are quoting
a law dated the year of 1934 where the Office for Statistics and
Economic Planning was ordered to carry out certain measures regarding
the production potentialities of the individual firms.

Then in the first paragraph of the second page of the English text
and in the sixth paragraph of the first page of the German text you
are saying: "Firm after firm then appeared," and I quote, "in order
to discuss the matter." I, therefore, thought that these conferences
started only after this law was issued, in 1937.

A. After the year of 1937 the work was carried on upon an insufficient legal, technical basis and based upon insufficient statistical material. I don't mean to say that the conferences did not take place before the year 1937.

Q. Dr. Ehrmann, if I understood you correctly you stated during your examination in chief that you were modifying the second paragraph of page 1 of the English text to the effect that the negotiations were mainly carried on by the representatives mentioned in that paragraph?

A. Yes.

Q. Will you please name these associates and representatives?

A. I cannot give you a list of the names, partly gentlemen were present who were not known from previous negotiations with the firms but as a rule gentlemen belonging to Vermittlungsstelle-W. Dr. Gorr, principally, and then Dr. Kaiser were present.

Q. But certainly these were not representatives of the gentlemen which you mentioned or were they?

A. No; I just told you; I cannot give you a list of the names.

Q. Dr. Ehrmann, I am particularly interested in my client Paul Haefliger whom you have already mentioned in this paragraph. Can you remember whether Mr. Haefliger before the outbreak of the war or only after the outbreak of the war participated in conferences which concerned themselves with mob matters?

A. I can hardly say something about that because I was only concerned with these questions after the outbreak of the war. Before the war I mainly had to rely on information given to me by Mr. Ungewitter or Mr. Hegert.

Q. In this case you cannot speak for the time before the outbreak of the war from your own knowledge?

A. Not with regard to the question which you just put to me.

Q. Was it recognizable from that information which you received from Dr. Ungewitter, as from what period Dr. Haefliger participated in these

conferences or can you not remember that?

A. I cannot remember it.

Q. In that case you also cannot remember whether Mr. Haefliger participated in negotiations with the Reich office Chemistry before the outbreak of the war and thereby dealt with questions concerning mobilization matters or questions which had nothing to do with mobilization matters.

A. I must tell you that I cannot remember any specific conference where Dr. Haefliger attended. I can tell you, however, and that applies to every field that I am not in a position to say whether conferences took place before or after the outbreak of the war.

Q. I have no further questions.

BY DR. HEINZELER (For Wurster):

CROSS EXAMINATION

Q. Witness, I have a short question with regard to your Exhibit 504 NI 4249 which is to be found in the English Document Book 24, page 199, German Document Book 24, page 61. In this affidavit you confirmed the organization chart of economic group for Chemistry dated April 1944. This organization chart, does it only hold true for the 10 of March 1944 or is also valid for a period prior to that date?

A. It is valid from the date 10th of March 1944 up to the date which is known to me.

Q. Thank you. My next question concerns your affidavit Exhibit 105, which is to be found in the English Document Book No. 5, page 105, German Document Book 5, page 115. In this affidavit you are making statements regarding negotiations concerning the so-called mobilization plans. You mentioned that representatives of I.G. Farben attended these conferences. You mentioned a number of Sparte heads and in particular you mentioned my client Dr. Wurster of Ludwigshafen. Upon the question of my colleague you said that you yourself only after the outbreak of the war attended these conferences. Did I understand you correctly to say that?

A. Yes, to a great extent but I have actually participated in a number of conferences before the outbreak of the war. One minute. But only after the outbreak of the war I was included in current business.

Q. Do you think you can remember actually having seen Dr. Wurster before the outbreak of the war when you were present during those so called mob discussions or is it true that you only made Dr. Wurster's acquaintance only after the outbreak of the war.

A. I would assume with a certain amount of certainty that he attended one session which touched upon the problem previously mentioned regarding the transfer of Oppau and Ludwigshafen. That took place in September 1939. Immediately after the outbreak of the war. I think it was either August or September 1939.

Q. But you don't remember Dr. Wurster attended this conference before 1939 specifically, do you?

A. No, unless I estimate the period of the conference which I just mentioned wrongly and that it perhaps took place in August of 1939.

Q. In this affidavit you are describing Dr. Wurster as a Sparte head. Are you clear about the technical significance of this designation within Farben?

A. This designation does not only hold true for the organization of the I.G. but it is a general designation.

Q. In that case let me pass to your affidavit NI-4954, Exhibit 500, which is Document Book 24, page 16 of the English text. According to the statement which you made in connection with the preceding affidavit I may assume that this affidavit too can be interpreted to mean that Dr. Wurster as far as you remember only participated in one conference, probably, and I emphasize probably in September 1939.

A. As far as we are here concerned with the problem of Ludwigshafen, counsel, if you are so precise I must go back to the year 1936 or 1937 when there were a number of conferences regarding the situation of the German sulphur supply, especially the erection of sulphur production plants. Dr. Wurster took part in these conferences.

Q. We would have to refer to your statement in greater detail, but I think it is beyond the contents of the affidavit which is now a subject of discussion; have I interpreted your statement correctly with reference to the contents of this affidavit?

A. Yes.

Q. Now, if before the outbreak of the war, that is in the summer of 1939, negotiations took place about the transfer of installations in Ludwigshafen and the stoppage of work in Ludwigshafen, the participants in these conferences must have been other gentlemen of the I.G. Do you know for what reasons the participants in these conferences did not agree with the decision made by the Reich Office of Chemistry?

A. They did not do so on technological grounds.

Q. Would you please explain your reply in greater detail?

A. Ludwigshafen represents a very complicated plant. One production and installation is closely connected with every other one. This in particular holds true of the modern parts of the Ludwigshafen plant and were then the subjects of the discussions. The removal of any part of the plant would under circumstances have lead to considerable difficulties from the point of view of production. Is that sufficient?

A. Yes, this is the technical aspect. My question concerned another aspect. If I put to you that that the negotiating gentlemen of the I.G. thought that this entire prerequisite for this removal in the case of war was something entirely theoretical and that they therefore objected to the transfer of Ludwigshafen, do you think that is possible?

A. I don't think it is out of the question, although this reason was not given at the time.

Q. But you admit the possibility as such, do you?

A. Yes.

Q. Thank you, I have no further questions.

THE PRESIDENT: Is there any further request to cross examine this witness on behalf of the defense?

The Tribunal hears none. Has the Prosecution any redirect examination?

MR. SPEECHER: None, Mr. President.

THE PRESIDENT: Then the witness is excused and the Marshal may escort him from the box.

Now it is perhaps too late to start on another witness, but we can no doubt well spend a few moments here in a better understanding of the program tomorrow, Mr. Prosecutor.

MR. SPEECHER: The program remains more or less in general what I said this morning but I would like to repeat it because more of the defense counsel are here now.

Tomorrow, and I can't give the exact order, it depends partly on technical difficulties, but tomorrow at any rate I shall take in the morning the witnesses Wischke, Frank - Fehle, Deichfischer or Wagner, and I hope we will be able to cover those four witnesses tomorrow and if we should finish then we will go on in reasonable time, we will go on with the documentation on Count I.G. where we left off before and we still plan on Thursday to go on with Dr. Struss, Dr. Berndt and defense counsel Ter Meer is beginning to work him either this evening or tomorrow.

THE PRESIDENT: Are there any further announcements? If not the Tribunal will be in recess until nine-thirty tomorrow morning.

(The Tribunal recessed at 1635 hours until 0930 hours 8 October 1947.)

Official Transcript of the American Military Tribunal in the matter of the United States of America, against Carl Krauch, et al, defendants sitting at Nurnberg, Germany, on 8 October 1947, 0930-1630, Justice Shake, presiding.

THE MARSHAL: Persons in the court room will please find their seats.

The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States of America and this honorable Tribunal.

There will be order in the court.

The persons in the court room will be seated.

THE PRESIDENT: Mr. Marshall, are the defendants present?

THE MARSHAL: May it please your Honors all defendants are present save the defendant Wurster who is absent due to illness.

THE PRESIDENT: Any preliminary announcements?

MR. DUBOIS: May it please the Tribunal,

In compliance with the request of the Tribunal, the prosecution desires to submit the following information concerning the balance of the proof which it will offer as part of its case in chief and its estimate of the number of trial days which the presentation of this proof should consume.

With respect to the proof relating primarily to Count I of the indictment, the prosecution expects to present approximately 250 more documents which will include affidavits submitted by 11 or 12 new affiants. The presentation of this documentary evidence should not take over 2 and one-half trial days.

With respect to the matter of cross-examination of affiants whose affidavits have been offered in connection with matters relating primarily to Count I, the situation, as we see it, is as follows: Within the next three trial days we expect to put the following witnesses on the stand:

Mischke, who has submitted 11 affidavits.

Deichfischer, who has submitted 10 affidavits.

Frank-Fahle, who has submitted 6 affidavits.

Wagner, for 6 affidavits.

Ernst Struss, who has given 45 affidavits.

When these five affiants have been cross-examined it will mean that 10 affiants who have presented affidavits will have been cross-examined. However it should be noted that these 10 affiants, together with the 4 affiants whom the defense to date have indicated that they do not wish to cross-examine, have given on the whole over 100 affidavits.

This will leave about 45 available affiants who have presented affidavits in connection with Count I. Most of these affiants have only given 1 or 2 affidavits and the total given by all 45 is only about 75. Although the defense with one or two exceptions have not as yet indicated it can be assumed we believe that in a number of cases the defense will not wish to cross-examine them or that the defense or the Tribunal will feel that the interests of the defense can just as well be served through written interrogatories. To the extent that these particular affiants are put on the stand for cross-examination, there is no reason as we see it why 5 or 6 cannot be cross-examined during one trial day. On this basis, the prosecution estimates that the balance of the proof on Count I should not consume over 10 to 12 trial days.

It might be pointed out in connection with Count I that, in the interest of saving time the prosecution has decided not to use certain affidavits which are contained in the document books which have already been delivered, and it will so indicate during the course of its presentation of proof.

With respect to Count II, the prosecution expects to offer approximately 350 documents, which will include affidavits of between 15 to 20 available affiants. On the assumption that of the affiants who are available and whom the defense wants to cross-examine about 4 can be put on the stand during each trial day, it is estimated that the

presentation of proof with respects to Count II should take about 8 to 10 trial days.

With respect to Count III, the prosecution expects to present between 600 and 650 documents relating primarily to the participation of the defendants in the slave labor program; their participation in the use of poison gas and medical experiments upon enslaved persons; and their activities at Auschwitz. In addition, it is expected that the testimony of 45 to 50 persons will be offered either in the form of direct testimony on the stand or in the form of affidavits. On the basis that at least 3 and frequently 4 witnesses, in connection with these matters, can be put on the stand each day, it is estimated that the presentation of the proof with respect to Count 3 should consume about 18 to 20 trial days.

With respect to Count IV, it is estimated that about 100 documents will be offered and the presentation of proof on this count should not take over 1 day.

It is not expected that any proof independent of that offered in connection with Counts 1 through IV will be offered in connection with Count 5.

This would mean a total of from 37 to 43 trial days for the conclusion of the prosecution's case in chief. Now it should be noted, that this time schedule does not take into account possible delays in the production of witnesses due to transportation difficulties, particularly witnesses from countries such as England, France, Belgium, Czechoslovakia, and Poland. On the other hand, it may be possible to conclude sooner than estimated if a procedure for the handling of witnesses more expeditiously can be worked out.

The prosecution would like to add at this point that the time required in connection with witnesses can be reduced, we believe if more of the defense counsel will indicate as promptly as possible to Mr. Sprecher their desires with respect to the cross-examination of those affiants who have not taken the stand--specifically those cases in

which they desire the witness to take the stand; those cases in which they do not desire cross-examination; and those cases in which they feel their purposes can be served through written interrogatories;

THE PRESIDENT: Thank you very much. Mr. Dubois, while we have your observations in the record, if you have available a copy of your remarks we might like to look at it before the record is available and return it to you.

MR. DUBOIS: We will try to get copies to the court and one or two copies to the defense.

THE PRESIDENT: We won't ask you to process the copies but in due course, in one or two days, if you want them back for your files we will hand them back to you.

Now, in order that there may be no misunderstanding the Tribunal deems it proper to remind counsel for the defense that we should like to have from you at the proper time a similar statement as to your estimate of time and as you will understand we don't expect that until the close of the prosecution's case in chief because, manifestly, the time required to present your case will depend, in a very large measure, on what you are expected to meet. Just one other suggestion. The prosecution mentioned the possibility of avoiding oral cross-examination of some witnesses who testify with respect to affidavits by the submission of interrogatories. We have no desire whatever to restrict your privilege of oral cross examination but when you feel that you can serve the interests of your clients by submitting interrogatories and dispensing with oral cross examination we shall be very happy to have you do that and to give the interrogatories the same consideration as far as the Tribunal is concerned as if the witnesses are cross-examined on the stand. We mention it to you at this time because so far there has been no occasion to use that means of cross examination. I want you to know that it is entirely acceptable to the Tribunal if the circumstances in your judgment warrant that procedure. Are there any other

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announcements before we proceed? If not prosecution may proceed. Oh,
Dr. Boettcher.

DR. BOETTCHER: Mr. President, following the explanations made by your Honor may I tell you about some of the ideas of defense counsel which have been discussed within our circle yesterday afternoon. I think I am speaking in the name of the predominant majority of my associates if I assure the Tribunal that every defense counsel will do his part in participating in the expediting of the proceedings in every way. I gratefully appreciate the statement of the Tribunal where it pointed out the limits of such expedition which is that the basic rights of the defendants for their defense must not be prejudiced. Beyond that, may I take the liberty to draw the attention of the Tribunal to a few points which in our opinion can assist in expediting the proceedings. There are two groups of suggestions, one: subjectively legal aspects and then technical aspects. As to the subjectively aspects, let me point out first that throughout more than one month the prosecution has submitted almost 1,000 documents, and what I am saying now is the interest of expediting the proceedings, which the defense considers to the most part irrelevant. Naturally this view of the defense does not release it from the very serious obligation of seriously studying and answering all these documents in detail. It certainly would help considerably to shorten the proceedings, if the prosecution would limit itself in the presentation of their documents, furthermore it would considerably facilitate the work of the defense and therewith assist in expediting the proceedings if it was clarified that, according to the decision of the joint Tribunals dated 9th of July 1947, the prosecution would state that, apart from Count I, they do not charge conspiracy in connection with the other counts of the indictment in particular, count 2 and 3. The consequence of any such statement, however, would bring about the obligation for the prosecution to state in detail, to what extent each of the defendants is considered to be guilty with reference to the individual counts. Let me remind you of the proceedings during the medical trial

and the General's trial and of the principles developed there about the concept of complicity according to Law No. 10. It would considerably assist the proceedings if, as was done in the trials just mentioned, the prosecution would state in the case of every individual defendant, for instance to what extent he was considered to be guilty in connection with counts spoliation and plunder in case of all the countries which come into question, Czechoslovakia and Austria, etc. In the same way it would assist the proceedings if the prosecution just as in the case of the Generals's trial, would state in the case of every document in the future, apart from Count I, where the relevance of a particular document lies in the case of every individual defendant. During the medical trial for instance, the prosecution, stated in the case of every experiment which defendant was considered to be responsible. These statements refer to subjectively legal aspects. There are a number of technical details which I should like to discuss and which almost seem trivial in their practical significance but at the same time are important for us and are of decisive importance. I think, however, that it would be in accordance with the repeatedly expressed desires of the Tribunal if I would not burden the record with these desires and I, therefore, suggest that the Tribunal during the next few days would receive us in their chambers in order to discuss these technical practical details when we would ask for your help. I intentionally avoided stating my position of the question as to whether the defense, after the conclusion of the submission of evidence on behalf of the prosecution, will ask the Tribunal to grant them a pause in order to prepare the defense. In view of the reasons discussed in the statement of 14th of August this is a matter which particularly concerning the defense. However, I do think that I should point out that as far as we can survey at the moment from purely technical reasons, for instance, printing mimeographing, translation of

LOTHAR MISCHKE, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q The witness will stand and raise his right hand. He will say "I" and state his name.

A I, Lothar Mischke.

Q And he will now repeat after me: Swear by God.

A I swear by God.

Q The Almighty and Omniscient.

A The Almighty and Omniscient.

Q That I will speak the pure truth,

A That I will speak the pure truth.

Q And will withhold and add nothing.

A And will withhold and add nothing.

Q The witness may be seated. The Prosecution may proceed.

BY MR. SPIECHER:

- DIRECT EXAMINATION -

Q Dr. Mischke, will you state your full name for the record?

A My name is Lothar Mischke.

Q That is your present address?

A Berlin, Zehlendorf, Ottschauer Steig 32.

Q Is that in the American Zone of Berlin?

A Yes.

Q Where was your address before 1945? Before the Collapse?

A Berlin, Zehlendorf, Eisvogelweg 24.

Q.- What are your present occupational duties, doctor?

A.- I am a Journalist and Radio Commentator.

Q.- In Berlin?

A.- Yes, in Berlin.

Q.- Now you worked, according to this affidavit, in the Supervisory Office of Chemistry "Pruefungstelle Chemische Industrie" between 1935 and 1945?

A.- Yes.

Q.- And you have stated that your principal work consisted of statistical export returns, export analysis and so on. Could you very briefly, and I underline "very briefly", state the nature of the duties you had in this office?

A.- In the Pruefungstelle Chemistry, Supervisory Office Chemistry, it was my duty to compile statistics about German chemical exports, as far as it was carried out with the help of the State. Beyond that I had to compile export analysis in the case of individual products. It was my duty to send regular reports to superior agencies in regard to questions of German chemical export. At a later date I carried out economical tasks within the frame-work of the war economy.

Q.- Now did you, in the course of your work, get to know a considerable number of other officials in the Reich Government?

A.- Not in the Reich Government.

Q.- I mean civil service.

A.- Yes, I dealt with government officials of the Reich Ministry of Economics.

Q.- Did you get to know or come to deal with any representatives of the I.G. Farben industry in your official duties?

A.- Yes, I had constant contact with the gentlemen from the Nitrogen Syndicate. I also had contact with a number of the gentlemen of the economical, political department of the I.G. Farben Industry in Berlin

and also with a number of gentlemen from the Peoples Political Department.

Q.- Those two agencies we commonly refer to here as "Vowi" or as "Wipo". Now from time to time did you talk to any of the representatives of I.G. Farben or persons who were dealing directly with I.G. Farben in official matters concerning the course of development in Germany between 1933 and 1939?

A.- Yes, I carried on such conversations with gentlemen coming from the Vowi with whom I had maintained a friendly contact from before. These were the gentlemen, Dr. Rupp and Dr. Burghseiser.

Q.- And did the question of development in Germany in relation to I.G. Farben also come up in connection with discussions you had in other circles within the Reich Ministry or other groups who were concerned with economic development and political development in Germany?

A.- The conversations about the German economical and political developments were carried on within a circle of the "Economic Group Chemistry" to which the "Pruefungestelle Chemie" also belonged.

Q.- Would it be fair to say that in the professional circles within which you worked the actions and policies and practices of I.G. Farben were quite often discussed?

A.- We were very much interested in the general line adopted by the economical and political departments of the I.G. Farben Industry.

Q.- In that connection did any discussion take place concerning the so-called "autarchy Program"?

A.- The "Autarchy Program" was in the center of the entire German economical politic, starting from the year 1934. The part played by the chemical industry in this connection was considered to be the key position. Consequently there was more than one reason to discuss the consequences of this autarchy program and to arrive at some clarification.

Q.- You stated in your affidavit that Krauch was Goering's most

important advisor. I assume you meant in the economic field?

A.- Yes, in the economic field. As I just stated, the decisive significance of chemical industry in the endeavor of autarchy is beyond doubt. I and my friends were of the opinion that Professor Krauch was the best man to coordinate these matters of the chemical industry. We highly esteemed the position which he had within the four year plan.

Q.- Now would you tell the Tribunal whether or not at that time, at the time of the autarchy program, you saw a direct connection between autarchy and re-armament?

A.- All endeavors for autarchy were understood by us to mean that the best possible standard was to be created for some possible war economy.

Q.- Now from your experience in the circles of which you have spoken, would you give us your opinion with respect to whether or not these circles felt, and I am talking about intelligent circles on the whole certainly, whether or not in these circles it was felt that Hitler would use force, if necessary, in order to accomplish his foreign political aims?

DR. BOETTCHER: I have to raise an objection. This question is not in connection with the statements the witness made in his affidavit. It is purely a question of opinion.

THE PRESIDENT: Mr. Prosecutor, the Tribunal would like to be advised if you regard this as supplementing the affidavit or affording a factual back ground in support of the affidavit or are you in the position of using this witness for additional testimony beyond and without the scope of the affidavit?

MR. SPRECHER: Your Honor, I think I must say both in that I think the two things are very closely related. In the first place it quite closely relates to some things in the affidavit, and even if that were

not so we have the right to produce evidence concerning this point of the knowledge of the intent to use force and I think this witness is qualified to speak on that point.

THE PRESIDENT: You are certainly correct this far, that the use of the affidavit does not preclude you from producing a witness for additional testimony. The trouble the Tribunal finds itself in with respect to the specific question is whether or not you are trying to bind these defendants as to their knowledge of conditions by showing what was generally regarded as certain facts with a comparatively small group.

MR. SPRECHER: Well, Your Honor, our position would certainly be that if someone in the position of the witness, Mischko, and his associates, at that level in the government had knowledge of Hitler's aggressive intent, that then certainly the gentlemen in the dock had such information because they were dealing at an even higher level in the government with these military economic matters.

THE PRESIDENT: Well, you have heretofore tried the case upon the theory that the defendants were bound to know that which was a matter of common knowledge within their country where they lived. Is it your position now that you have the right to go into smaller groups of people with which they had intimate associations and thereby bind them as to matters that were of common knowledge in the smaller groups?

MR. SPRECHER: Well the question of common knowledge, of course, always does mean, I suppose, common knowledge, with respect to what kind of people, and our position is that the average informed German who had any access whatever to the problems of the day in the economic field, particularly the so-called military economic field, had ample knowledge from the point of view of what we consider it necessary for us to prove here.

THE PRESIDENT: The Chair may say that so far as he is concerned,

he has always been of the impression when you try to bind an individual as to knowledge by showing what was generally known, that you are required to base it upon a matter of general knowledge rather than upon specific knowledge that may have come from association with a limited group, for the very fundamental reason that if you depart from the general knowledge theory, you ultimately find yourself in the situation of trying to prove collateral issues as to how far the knowledge of a limited group may be binding on the individual. In other words, as applied to this situation, conceding that it is proper for the Prosecution to show what was general knowledge in Germany upon the theory that that was some evidence of knowledge on the part of the defendants. When you depart from that rule and say that in a limited circle certain facts were generally understood and those defendants had associations in the limited circle, then you find yourself presented with the necessity of inquiring as to what sources of knowledge the limited circle had and how that was distinguished from the matter of general knowledge and, of necessity, then you would have to conduct a separate inquiry, so to speak, to see whether or not it was deducible that from the limited circle the matter of information could be brought to the individual defendants. Just a moment, please.

The Tribunal sustains the objection to the inquiry.

MR. SPEECHER: May I lay the foundation then, Your Honor, for another question?

THE PRESIDENT: Yes, certainly.

BY MR. SPEECHER:

Q.- Mr. Witness, in connection with the "Anschluss" and the occupation of Prague and Czechoslovakia, do you feel that you have a view and opinion as to what was common knowledge in Germany at that time with respect to the question of the use of force in connection with the foreign policy?

A.- I don't believe that any one in intelligent circles ever doubted that Hitler at any time would be ready to take a chance and that at any time he would be ready to use force in order to reach his foreign political aims.

Q.- When did this become clear, if you can state a definite time, or if not, give an explanation of the time factor?

A.- This conviction became general knowledge at the very latest in the autumn of 1938.

Q.- Now, can you tell the Tribunal whether the concept of "Grosswirtschaftsraum" and "Grosswirtschaftsraum Politik" were used generally in order to describe the economic policy of Nazi Germany at any particular time?

A.- As far as I remember the expression "Grosswirtschaftsraum" and "Grosswirtschaftsraum Politik" was generally applied approximately in the autumn of 1940. At that time specific directives went to all economical political levels to work out plans for the organization of a European "Grosswirtschaftsraum", greater economical area.

Q.- Was the expression "Lebensraum", frequently used at an earlier time?

A.- The expression "Lebensraum" is an old one, and, as far as I remember, was already used long before 1933, but this expression then had a certain meaning and by "Lebensraum" one understood the area in which Germans and especially racial Germans lived in Europe and had their economical basis. This expression had a descriptive character. It in that time had nothing to do with the National-Socialist expression "Grosswirtschaftsraum". However, at a later time the Nazis used the concept "Lebensraum" and "Grosswirtschaftsraum" synonymously. During their large rallies they used the word "Grosswirtschaftsraum" and they also did that during conversations in economical and political circles.

Q.- I didn't quite understand the last sentence as it came through

on the translation. Did you or did you not make a distinction between "Lebensraum" as used in popular assembly and "Grosswirtschaftsraum" as used in technical economical circles?

A.- Certainly not during the Nazi period.

Q.- With respect to the word "Lebensraum", was that used - tell us whether or not it was used more or less commonly in popular circles than the word "Grosswirtschaftsraum"?

A.- As far as I remember I would say yes. In public "Lebensraum" was more frequently discussed than "Grosswirtschaftsraum".

Q.- And in economic circles what was the case as between the two terms?

A.- In economic circles from 1940 on the expression "Grosswirtschaftsraum" became customary.

Q.- Now, Dr. Nischke, in the affidavit which you have set forth, do you have any corrections which you would like to make at this time?

A.- I believe I can forego any corrections.

Q.- At the time you made this affidavit before Mr. Halperen in Berlin, were you advised of the obligation to tell the truth and the penalty for perjury?

A.- Yes.

Q.- Did you discuss this affidavit and these other matters with me yesterday?

A.- Yes, you once more asked me about the significance of making an affidavit.

MR. SPRECHER: Defense may cross-examine.

CROSS-EXAMINATION

BY DR. LINGENBERG: Counsel for Dr. Ilgner:

Q.- Witness, since in your case we are only concerned with just one affidavit which you made there can be no doubt as to identity. In your affidavit you are expressing a few general opinions about the at-

titude of Farben and about Farben's business policy generally. Would you please tell me whom of the gentlemen of Farben you know personally and I am particularly interested in the members of the Vorstand, in the dock.

A.- I left no doubt about the fact that I did not make the personal acquaintance of any member of the Vorstand in the Farben and that I only met Dr. Ilgner once, on the occasion of a negotiation in the "economic group" and once when I visited the "Vowi".

Q.- Are your general statements about Farben based upon statements which were made to you by other members of the Vorstand of Farben or what are they based on?

A.- The circle of friends within the economic group chemistry in which I worked was always very interested in clarifying the political attitude of the I.G. Farben industry and about their representatives. This circle of friends endeavored to organize a resistance group within the economic group and it tried to establish connections with important representatives of the economical life.

Q.- If I understood you correctly then, your information is based upon this circle of friends and not so much upon sources from the Farben?

A.- The most important man of this circle of friends was Dr. von Einsiedel, the deputy of Dr. Ungewitter, who had an extremely good insight into the situation as it prevailed in the I.G. Farben Industry.

Q.- But we are in agreement that these were not important gentlemen from Farben?

A.- I do not quite understand your objection, Counsel. You are trying to say that I had no direct information from important representatives of Farben.

Q.- Well, we can conclude that matter. I was only interested in finding out what your source of information was. Well, I have one more question. As the first example for the fact which you asserted that Farben made their economic facilities available to the Nazis to a great extent, you mentioned, under paragraph 2 of your affidavit, that every difficulty of foreign currency could always be settled easily by the representatives of I.G. Farben abroad. When you are talking about representatives abroad, are you talking about official German representatives abroad, such as embassies, legations, consultates, etc.?

A.- Counsel, if you want my personal opinion on that --

Q.- Witness --

A.- Then I am quite convinced that not only these official sources participated but that beyond that, the field offices of the Party participated in the same way.

Q.- Well, I accept that statement, but at any rate you were not talking about private firms, were you?

A.- No, I was not.

Q.- Witness, I am sure you are aware of the fact that there were regulations about foreign exchange in Germany which means to say that

export firms could not dispose of foreign currency. Do you know when these currency regulations were introduced for the first time?

A.- As far as I remember, there were directives about foreign currency already prior to 1933. These regulations were intensified as the general situation deteriorated.

Q.- That is true. If you want to give a precise date, I think you could mention the bank crash of 1931. Is it true, Dr. Mischke, to say that the essential sense of these currency regulations was that German firms and German individual persons would have to deliver to the Reichsbank all currency which they received?

A.- Yes, that is quite true.

Q.- Furthermore, is it true that the I.G. Farben Industry was in the same way subjected to these currency regulations?

A.- Yes, as a matter of principle, it was subject to these regulations in the same way. Practically, however, as far as I know the I.G. Farben Industry had a preferential position because they had special agreements with the competent foreign currency authorities. That referred to all foreign money transactions of that concern. Within the frame of these special agreements in favor of the I.G. Farben concern, as far as I remember, they were granted assistance which I discussed in my affidavit.

Q.- Witness, to what agreements with foreign currency agencies are you referring?

A.- At the moment I cannot reply to that question.

Q.- Let me ask you, did you work in the field of foreign currency?

A.- No, not directly.

Q.- Tell me, witness if Farben received an order from the competent German authorities to surrender certain foreign currency, was it not necessary for Farben upon the basis of regulations, to comply with this directive?

A.- Yes.

Q.- Is it true that the German Reichsbank or other official German authorities in such a case would give to the I.G. the collateral of such currency which had been surrendered in the form of Reichsmark?

A.- Yes.

Q.- Having reconstructed this procedure in this way, witness, let me ask you whether any such payment of German representatives abroad could be considered a voluntary offer of economic facilities by Farben to the Nazis?

A.- Counsel, here you would have to clarify the question as to from what date such transactions received a greater significance.

Q.- I don't think, witness, that we have to ask that question because my question had a semi-theoretical character to it. Let me repeat the question. Was it a voluntary grant from Farben to the Nazis in order to develop economic facilities for Germany.

THE PRESIDENT: If the witness please, you should answer the question, and if you find it necessary to place any time limitations in order to make a complete answer, you may impose such time provisions as are required for an answer.

WITNESS: It is my view that the example which I stated in my affidavit corresponds with the facts, but does not clarify them sufficiently. When giving my affidavit I was principally interested in the preliminary sentence: "After 1933 the I.G. Farben concern, etc...." The example which I quoted was not very important for my purposes.

Q.- Thank you, witness.

THE PRESIDENT: Counsel, the Tribunal was merely going to urge the witness to try to answer your question. If you do not desire to press it further you may go on.

DR. LINGENBERG (Counsel for defendant Ilgner): Thank you, Mr. President, I believe that we have clarified this question through the assis-

tance of the Tribunal.

BY DR. LINGENBERG:

Q.- Dr. Mischke, let me now discuss the subject you mentioned in your affidavit regarding South-Eastern Europe policies. You mentioned that Dr. Ilgner was the president of the South-Eastern Europe Committee.

Do you know, witness, when the South-Eastern Committee of Economic Group Chemistry was founded?

A.- As far as I remember, that was approximately in the year of 1941.

Q.- That is not quite correct; it was in 1942.

As I can gather from your affidavit, witness, you obviously participated in the South-Eastern discussion within the Economic Group. Dr. Ilgner, ever since 1931 and 1932, had endeavors for South-Eastern European countries with reference to industrialization. He did that in his capacity as chairman. Do you know about his endeavors to that effect?

A.- No, I do not remember them.

Q.- Dr. Mischke, did you ever receive knowledge that these endeavors were aimed at extending the foreign and world markets which also included the I.C. export? And that it was intended to help the respective countries in the building up of their own export?

A.- Counsel, I think this interpretation is a matter of opinion. My opinion differs from yours. It is my opinion that this German South Eastern policy pursued aims which fall within the frame of Grossraumwirtschaft, which is an expressly imperialistic tendency.

Q.- Witness, I did not wish to hear your own opinion. I think I expressed myself very clearly. I was putting a very specific question to you: namely, do you know about Dr. Ilgner's endeavors to that effect? I think you can reply to that question with either yes or no.

A.- Counsel, you formulated your question differently. You asked whether it was my opinion that these endeavors were intended to benefit —

Q.- I am sorry, witness, I think you misunderstood me.

THE PRESIDENT: Witness, the present question is whether you know as a fact about Dr. Ilgner's participation — not what your opinion may be. If you do know, you may so state.

WITNESS: Dr. Ilgner was participating in German South-Eastern politics from the year 1942, where he had a leading position.

Q.- Witness, we are not getting to the core of my question, but I think we can leave this field because it is my opinion that you are not sufficiently informed about these matters, at least not as I believed before. Let me pass on to another subject.

You stated in your affidavit that all the reports which were available in Farben regarding foreign countries were naturally brought to the knowledge of German authorities. When discussing these reports do you mean the work of the VOWI, the National Economic Department of I.G.?

A.- Yes, I also meant that work.

Q.- Witness, you said before that you had personal connection with a number of gentlemen in the VOWI. Do you, therefore, know that the work of the VOWI, ever since its foundation, which is the year 1933, was available to everyone that had anything to do with Farben? Is that true?

A.- No, I don't know of that.

Q.- When making your statements in the affidavit, what other reports which were available to Farben, did you refer to?

A.- I also referred to reports of the foreign representatives of the I.G. which, through the agencies of the I.G., were transmitted to authorities in the foreign office and other governmental agencies.

Q I shall, for the moment, leave the question as to whether there were any further reports; but let me ask you: Did you know of all reports on other countries which were submitted by Farben?

A No.

Q Don't you think then that your judgment is somewhat too comprehensive if you say that Farben placed all reports on the situation in foreign countries at the disposal of German authorities?

A No, I would use the same language even now. Naturally, only important matters were transmitted. This expression "all" naturally refers only to important matters.

Q In that case, you are limiting your statement.

One more thing, what did you know about such reports, since you just told me that you did not know about all the reports as they came in?

A I left no doubt about the fact that my information about the enterprise in its relations to official agencies goes back to information which I, in turn, received from friends, i.e. from third parties.

Q Very well. Witness, in your affidavit you go on to say that you were active in compiling expert analysis in the "Pruefungsstelle Chemie"?

A Yes.

Q Apart from the VOWI of the I.G., did you have other contact in this connection with other organizations and institutes?

A Let me correct you. In connection with this work I did not deal with VOWI but WIPO. Naturally, I also dealt with other chemical firms in the same matters.

Q Do you perhaps know from your activity that in the case of other National Economy departments and institutes, according to an international custom, the reports and the work which was compiled was also sent to all interested parties?

A No.

Q You don't know that?

A No, I do not.

Q Thank you.

I am turning to the fourth and last point which I want to discuss with you. At the end of your affidavit you say that Dr. Ilgner already before 1933, in agreement with Dr. Goebbels, became a member of the Rotary Club in order to function there as an observer. Did Dr. Ilgner tell you that personally?

A These are the words of Dr. Ilgner personally—almost verbatim—during a conference of the Economic Group Chemical Industry.

Q Dr. Mischke, if I now put to you that Dr. Ilgner only met the former Minister of Propaganda in the middle of 1933, when he made his acquaintance for the first time, and if I put to you that Dr. Ilgner became a member of the Rotary Club only in the course of the year 1933 at a time when the Rotary Club was attacked by the Nazis in an organization akin to the Free Mason Lodge, do you not think that you are making a mistake?

A I think this is entirely out of the question because I remember this event, and it made a strong impression on me.

Q At any rate, it was a number of years ago, but if you want to stand by your original statement, very well. My last question, witness, you are describing Dr. Ilgner in your affidavit as a "pronounced Nazi" and at the same time you say that you only met him twice. On what facts do you base this statement?

A Counsel, sometimes only one meeting suffices to clarify one's opinion about a human being. In this case the statements Dr. Ilgner made during this aforementioned conference gave us the impression that he was a hundred-percent representative of the National-Socialistic ideology. This opinion was confirmed by gentlemen who had closer personal contact with him.

Q What did Dr. Ilgner say at the time which had such a National-Socialistic character?

A Counsel, I regret that at that time I was not able to make a record of what he said.

Q At any rate, you can no longer repeat it today?

A I do not believe that you would be in a position to do that either.

Q Well, let us leave that. Apart from that, let me once more reiterate that all further information you gave is based upon third persons.

A With regard to what?

Q I am referring to the personality of Dr. Ilgner, and especially this allegation of being a "pronounced Nazi" that you make in your affidavit.

A Gentlemen of whom I know that they had personal contact with him constantly from the year 1938 up to 1945 arrived at that conclusion.

Q And you know that from these people?

A Yes, that is right.

Q Well, then you do not know that from your own knowledge?

A No, since I had no personal contact with him--

Q Well, it is enough if you just answer yes or no.

A Yes.

DR. LINGENBERG: Mr. President, no further questions.

THE PRESIDENT: The Tribunal will rise for its morning recess.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

DR. HOPFLANN, counsel for the defendant von der Heyde:

Q. Witness, whom did you know in the Wipe?

A. Dr. Boonninghausen, Mr. Trautwetter and Mr. Delbrueck. These were the gentlemen with whom I had constant contact.

Q. Were these all?

A. Occasionally there were other gentlemen, the names of whom I do not remember.

Q. Couldn't you remember their names at all?

A. I don't know how to understand your question. Do you want to describe them to you?

A. No, witness, I want to know who the men were whom you know in the Wipe, and if you can give me some names - please let me finish, --if you can give me a number of names now. I am not satisfied if you give an indefinite number of other men as people whom you may have known. You must be able to think and try to remember and give me an answer as an intelligent person.

A. Counsel, I think we can limit ourselves to the three gentlemen whom I mentioned. They were the ones with whom I had a regular official contract.

Q. Thank you. Witness, did you ever have any Wipe reports in your hands?

A. Reports of the Wipe did not go through my hands

Q. You never saw any?

A. No.

Q. Then you personally, had idea of what these reports were like?

A. No.

Q. Thank you. Now tell me, witness, you said the no one informed circles, doubted that Hitler would use force, and you mentioned the date as far back as 1938?

A. Yes.

THE MARSHAL: The Tribunal is again in session.

DR. HOFFMANN, counsel for the defendant von der Heyde:

Q. Witness, whom did you know in the Wipe?

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A. No.

Q. Then you personally, had idea of what these reports were like?

A. No.

Q. Thank you. Now tell me, witness, you said the no one informed circles, doubted that Hitler would use force, and you mentioned the date as far back as 1938?

A. Yes.

Q. Witness, could you please tell me what you mean by "intelligent circles"?

A. Under "intelligent circles", I understand those persons in Germany who, during the years of the Nazi regime, endeavored to inform themselves about the course of events, and to keep themselves currently informed about developments.

Q. Would you please tell me how high you estimate the number of these people?

A. This question cannot be answered.

THE PRESIDENT: Just a moment. That is not an answer to say that it cannot be answered. You can say that you cannot answer it; that you do not know. Is that what you mean, Mr. witness?

A. I shall even go further, and I should like to say that one cannot answer it.

THE PRESIDENT: You are not required to speak for anyone else but yourself. Do you know how many people were advised of that fact.

A. No.

THE PRESIDENT: That is a complete answer.

DR. HOFFMANN:

Q. Tell me, witness, do you know of a method of determining public opinion such as is in practice in America, as I understand, and such as is being used here too now, that is in order to determine the real public opinion, a large number of people are questioned; people from every class of society, housewives, laborers, civil servants, and cross section is made of those answers, and from this cross section one can speak of an estimated public opinion. Do you know this method?

A. Yes. I am acquainted with that method.

Q. Witness, do you believe that in the period up to 1945, that was possible in Germany?

A. No.

Q. Then do you agree with me, that one cannot say definitely what public opinion was in Germany up to 1945?

A. No, this conclusion you are drawing, counsel, goes a little too far.

Q. How far do you want to go?

A. Certainly even during the time of the Nazi regime there existed a possibility to inform oneself about public sentiment.

Q. How do you mean?

A. You could find out in street cars.

Q. And everybody was talking openly, witness. You could discuss the opinion that you held, you could discuss only among your friends?

A. Counsel, initially you were talking about "intelligent circles". That was also the formulation of the prosecution's question when it put its questions to me. Whoever had access to such circles, with a little bit of intelligence and care, could find out what the public opinion was within these exclusive circles.

Q. How many people were in the Circle? How many people were in this Circle in which you moved?

A. I believe I could say there were about 100 to 150 persons.

Q. And you were in constant contact with them?

A. Constant in the sense of occasional contact.

Q. And among these 100 to 150 people you think the opinion prevailed, in the Fall of 1938, that Hitler was ready to use force?

A. Not only in such a limited circle, counsel. In the Fall of 1938 you could go through Germany and everybody would have expressed his fear of a war.

Q. Witness, if expressed his fear of war, that proves that nobody wanted war; otherwise why would he have been afraid?

A. Counsel, I personally have no doubt but that the German people did not want the war. This war was unleashed by a gang of criminals.

Q. Witness, did you belong to a resistance group?

A. Yes.

Q. Did Dr. Hilscher also belong to this group?

A. I never made the personal acquaintanceship of Dr. Sievers.

Q. You know about Dr. Sievers, though, who was condemned to death by hanging by Military Tribunal I here, that he was a close collaborator of Dr. Hilscher?

A. Yes.

Q. Witness, another question: You know that Mr. Sievers considered it proper to have 150 innocent people killed, defleshed and set up as skeletons in Strassbourg?

A. No.

Q. Perhaps you know that Military Tribunal I found that in response to this request of Himmler, who considered that private amusement, he went to Mr. Hilscher beforehand and asked him what he should do?

A. No. This connection is completely misrepresented by you.

MR. SPRECHER: I must object to this line of questioning.

DR. HOFFMANN: Mr. President, I am merely stating what I saw with my own eyes in the medical trial and I can bring proof of this with the record which I have here.

MR. SPRECHER: That point has never come up in connection with my objection. I am objecting to the competency regardless of the question of the truth of the matter. Now, Your Honor, if there is any question I would go farther on the point but, if not, I am willing to contain myself.

THE PRESIDENT: Well, there is nothing before the Tribunal. There was no objection before the question was answered. There is no unanswered question now and we can't sever the soundtrack and strike out any evidence anyway. So go on to another question. That is without prejudice, Mr. Sprecher, to your right to object to the next if you think it improper.

BY DR. HOFFMANN:

Q. Witness, you said you belonged to Hilscher's group, didn't you?

A. Yes, but not only to the group of Hilscher.

Q. But you also belonged to Hilscher's group?

A. Yes.

Q. Now, if I tell you that Hilscher's group, in the circumstances which I have just described, did not object for ideological reasons against its chief Sievers remaining in the "Ahnenerbe", which was declared to be a criminal organization by the IMT, and these atrocities which I have described went through Mr. Sievers, if it is true, then that the head of this resistance group, Mr. Hilscher, thought that to achieve a higher end, one had to put up with this, can't you imagine that many things had to be put up with which you, in your affidavit, attack as crimes, even the turning in of foreign currency, especially since you could be legally forced to do so?

MR. SPRECHER: I object to the question as being incomprehensible, multiplicitous and incompetent.

THE PRESIDENT: Well, the question may not be in the best form. I am personally of the opinion that the Tribunal understands a part of it at least and it may throw some light upon the weight to be given to the testimony or the affidavit of the witness by showing his associations and affiliations. The objection is overruled. The witness may answer the question.

A. MR. WITNESS, do you understand the question that was propounded to you to which counsel for the Prosecution objected a moment ago?

THE WITNESS: Counsel, I am unable to see the connection—

THE PRESIDENT: Witness, the connection is not for you to determine. The Tribunal is asking you if you do or do not understand the question.

THE WITNESS: No.

THE PRESIDENT: Then you are entitled to another question.

BY DR. LOFFHAHN:

Q. Then I will ask you briefly, do you believe, in view of the example which I have given, that the associations of the Hilscher Group to which you belonged, are much more difficult to justify than the associations which the I.G. Farben had in respect to the turning in of foreign currency which has been described?

Isn't it better to turn in money than to sacrifice human lives?

A. Counsel, it is not my opinion that conflict of interest was a matter before us. The concern, I.G. Farben, principally followed the line of National Socialistic economic policy and beyond that the line of National Socialistic policy.

Q. Witness, I should like to mention what Judge Beals, the chairman of Military Tribunal I, said, when Sievers was condemned—

THE PRESIDENT: Counsel, that would not be a proper inquiry. Now, let's resort once again to the functions of this cross examination. 8
You have a right, of course, to ask this witness about his associations,

when he came in contact with, how he formulated the opinions that he expressed in the affidavit and you also have a right, so to speak, to take the affidavit apart and ask him about individual parts of that.

If you go into an inquiry about what he knows about what some other court or tribunal may have decided or what the issues were with respect to that matter, then you are opening the door for the Prosecution to show its conception of it and we will be trying a collateral matter.

I think you better ask another question. The witness need not answer the present question.

BY DR. HOFFMANN:

Q. Then I have only the question: Did the 100 to 200 people whom you mentioned, also belong to Hilscher's resistance movement?

A. No; certainly not.

Q. Any of them?

A. Among my friends only one dozen played any part in the group of Hilscher.

DR. HOFFMANN: Very well.

DR. VON KELLER: Dr. von Koller for the defendant von Schnitzler.

BY DR. VON KELLER:

Q. Witness, you say, in No. 3 of your affidavit, that proof of what you said above is the annexation of the Aussiger Verein Fuer Chemische Und Metallurgische Industrie of the I.G. Farben—I presume by I.G. Farben in the Spring of 1939. Witness, do you know the name of this company?

A. The company was always acting under the abbreviated name of Aussiger Verein.

Q. Please go on.

A. As far as I remember. Then it had the name Prague Association for Chemical and Metallurgical Industry.

Q. That is enough. Thank you. Now, may I ask you where this

Prague Association was located?

A. I don't remember. I believe it was in Prague.

Q. Yes, it was in Prague. Do you know the Prager Verein, which you have spoken of here with a somewhat misleading name, from your own observation? Did you visit it?

A. No.

Q. Did you see the reports? It's business-----

A. No.

Q. Do you know that Farben did not acquire the Prager Verein but, together with another firm, only the plants Aussig and Falkenau?

A. As far as I remember, there was a Farben influence in the rest of the Prague Association.

Q. I am not asking you about influence. I am asking you whether you know that Farben acquired only the plants Aussig and Falkenau?

A. Yes. They formed the main part of the Prague Association.

Q. I didn't ask you about the main part. May I ask you, witness, do you know that the Prague Association, located in Prague, even after this transaction, continued to exist? Yes, or no?

A. No.

Q. You did not know then, that the Prague Association continued to exist?

A. At the moment I don't remember.

Q. Do you know that there were negotiations between Farben and the Prague Association concerning the Aussig and Falkenau Associations?

A. In connection with the crisis of Spring, 1939, yes.

Q. There were negotiations, I ask you?

A. Yes.

Q. Do you know that Farben, later exceeded with its offer the original price offered after the negotiations?

A. No.

Q. Do you know what the price was?

A. No.

Q. Do you know how the money was transferred?

A. No.

Q. In your affidavit you speak of annexation. Do you know that this word has a very precise juridical meaning.

A. This meaning is not to be understood here.

Q. Thank you. Do you know the correspondence on this transaction between Farben, the Ministry of Economics and the Prague Association?

A. No.

Q. And you were not present at the negotiations?

A. No.

Q. But you believe, witness, that your knowledge is adequate to call this transaction an annexation?

A. Yes.

DR. VON KELLER: Thank you. That is enough. I have no further question, your Honor.

THE PRESIDENT: Is there to be any further cross examination of this witness? None is indicated. Does

counsel for the Prosecution desire any further examination?

MR. SPRECHER: May I have just a minute, your Honor?

THE PRESIDENT: Yes, surely.

MR. SPRECHER: No redirect.

THE PRESIDENT: Then the witness is excused and the Marshal may escort him from the box.

(Witness excused.)

THE PRESIDENT: The Prosecution will call its next witness.

MR. SPRECHER: Your Honors, may we have just a moment? One of the witnesses has fallen ill and it is a question of ordering witnesses as between two others. I believe the next witness will be Deichfischer.

THE PRESIDENT: Very well. You can ascertain your procedure and we will wait on you a moment.

MR. SPRECHER: The Prosecution calls as its next witness, Helmut Deichfischer.

THE PRESIDENT: The Marshal may conduct the witness to the box.

MR. SPRECHER: Mr. President, while the witness is being brought in, I might mention the exhibits. They are listed in this listing of affidavits and the book numbers are given. If your Honors have that with you then I won't have to bother.

THE PRESIDENT: We have it available here. The witness will rise, hold up his right hand, say "I" and state his name.

THE WITNESS: I, Helmut Deichfischer.

THE PRESIDENT: And now repeat after me:

I swear by God the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: The witness may be seated. The

witness is with the prosecution

DIRECT EXAMINATION

BY MR. SPRECHER:

Q. Mr. Deichfischer, will you state your full name for the record, please?

A. Helmut Deichfischer.

Q. What is your present address?

A. Frankfurt on the Main, Parlament splatz, 9.

Q. And what is your present employment?

A. I am with the Control Office of I.G. Farben in Frankfurt.

Q. And what is the general nature of your duties with them at the present time?

A. I am working on the accounts for the purpose of the Control Office from Farben files. I am also working on statistics and I am also in charge of a department for inter-zonal traffic of property which is under the control of I.G. and has been taken over by four different control commissions.

Q. Mr. Deichfischer, what was your position before the German collapse in 1945?

A. My position with Farben?

Q. Yes, indeed.

A. At last I was head of accounting in the Central Finance Office up to 1940 until I was drafted into the Wehrmacht.

Q. Now, are you generally familiar with the available files of the I.G. Farben Industry in so far as they have to do with the finances of the company?

A. In Berlin I had knowledge of a certain section of the files which concerned only the Central Finance Office. Only now, since I have been working with the Control Office, have I learned through my work of a large part of the files

of the I.G.

Q. Now, Mr. Charmatz, one of the attorneys of the Prosecution staff, has checked with you with respect to the affidavit that you have given and you now have copies of them before you; is that right?

A. Yes, I have them before me.

Q. Now, at the time you worked out these affidavits at the request of our investigators, were you warned about the penalty for perjury and the obligation to tell the truth?

A. Yes.

Q. Do you have any corrections or additions which you think it necessary to make at this time concerning these affidavits so as to give a fuller picture or a complete picture of the truth concerning the entries on these charts and your explanations thereof?

A. Yes. There is one thing I would like to point out.

Q. Will you give us the number of the document?

A. In almost all of them -- almost all the affidavits which I made -- I was called responsible for the balance department of the I.G. in Frankfurt. This is not quite right. I was head of the accounting group and still am. That is not quite as comprehensive a position as the one given here.

Q. Would you just read the words which are incorrect so we know exactly what is meant?

A. Yes.

Q. In English, please.

A. I am afraid I can't do that. I don't have the English text here. (Documents handed to witness.)

Q. Mr. Charmatz will show you one of the copies. I think the introductions are generally the same.

A. It is Line 4: "And since then in charge of the Section Balance Sheets in the I.G. Control Office in Frankfurt."

Q. Now, how should it read?

A. For the group, for the sub-section balance sheets.

Q. Anything else, Mr. Witness?

A. Yes. In Exhibit 692, that is Document 10,016, on Page 4 of the original, on Page 3 of this document about the middle of the page, there are some figures given for OKH credit. I got figures from an affidavit of Dr. Struss but these figures are not given in this affidavit.

MR. SPRECHER: Your Honors, to clarify the matter, this is at the top of Page 5 of the English copy and it is in the middle of Page 4 of the German copy.

THE PRESIDENT: Thank you.

BY MR. SPRECHER:

Q. Will you explain exactly what you mean with respect to this compilation?

A. Yes. In this affidavit a credit of Michler is mentioned which I am supposed to have taken from an affidavit of Dr. Struss, but this figure is not given in that affidavit and I don't know where this figure comes from. All the other figures I obtained either from the Books and documents, and so forth, available to me or from affidavits of other people, but this one figure I cannot account for.

Q. Now, you referred to an entry of 460,000 Reichmarks. Is that correct?

A. No, 2.4 million under B, as far as I recall. I am afraid I don't have the documents with me. Karl Michler, 2,400,000.

Q. The first entry under Michler above under A. You are talking about the entry under Michler below under B?

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A. Yes.

Q. Anything else?

A. No; nothing else.

MR. SPRECHER: The Defense may cross examine.

DR. GIERLICH: Mr. President, may I make a brief explanation before the cross examination and a request to the Tribunal?

THE PRESIDENT: Yes.

DR. GIERLICH: Mr. President, the witness Doehfischer, partly by himself and partly with a great amount of assistance has brought forward a large amount of statistical work, the examination of which in detail is not possible to the defense for obvious reasons. We have no doubt that this work was carried out with great care but, nevertheless, before the cross-examination, I should like to ask the Tribunal, that, if in the course of the further work of the defense there should arise some doubt on individual points about this extensive work, we might have the opportunity to discuss any such questions with the witness when presenting the case for the defense. I believe this method would be suitable to expedite the proceedings. I should like to point out one thing especially in this connection, that is, the fact that the statistical material which has been offered here as far as it concerns investments, sales, profits, etc. always begins with the year 1932. This year was the depth of the depression and one of the worst years in the last fifty years in Germany and I believe in general this year is not a suitable one on which to base a consideration of the development of turn-over, profits, etc. The defense is studying the statistical exhibits offered by the prosecution which all begin with 1932 and is trying to work them out from the years 1926 to 1932 because we believe that this gives a clearer picture of the general economic trend which was expressed in the activity of I.G. Farben. It might be necessary for some question or other to be clarified which the defense cannot foresee today and

I will be extremely grateful if the prosecution would agree that Mr. Deichfischer might be recalled for that purpose.

MR. SPRECHER: I think this certainly falls in the category of what one might call rather exceptional cases and I'm sure with Dr. Gierlichs and others if there are either errors or additional facts which are relevant we can very likely bring them out by means of an agreement after talking to the witness and after the witness has had an opportunity to check the proper files and then to submit either what might be called a cross interrogatories which the witness might answer or a supplementary affidavit on those very technical points.

THE PRESIDENT: Thank you, gentlemen, as far as the Tribunal can see there is certainly no impediment for counsel for the defense in eliciting information that the witness may be able to supply for future use and as we have already indicated you are not bound by this affidavit so that you may not dispute it either by this witness or any other evidence that you may be able to produce during the defense.

DR. GIERLICH: Thank you very much, Mr. President. I believe the statement of Mr. Sprecher will help us in most cases if such problems actually do arise.

BY DR. GIERLICH:

- CROSS EXAMINATION -

Q Mr. Deichfischer, to clarify your function with I.G. Farben, I should like to ask merely one question. Were you in the central finance office? Were you the head of the bookkeeping department or did you have a superior there?

A No, I was not the head of the bookkeeping department. My title was Department Chief but there was another man who was head of the bookkeeping department and that was Mr. Ackermann and then there was the head of the central

finance office Mr. Helfert who was also my superior.

Q Mr. Ackermann was your superior too?

A Yes, our fields of work were not clearly defined.

Q Thank you, witness, that is enough. Now another question: In your work before the collapse you were not concerned with preparing I.G. Farben balance sheets?

A No.

Q So the work you are doing now you are simply writing letters to satisfy your gathering statistics from I.G. Farben or from the various plants and are bringing them together according to specifications of the prosecution?

A Yes, but that is not quite correct from the work with the material I could get a certain impression of whether the figures were correct or not. I could not, of course, determine the ultimate source of every figure.

Q Yes, that is how I understood it. You got insight in general as to the correctness of these figures but you could not examine each figure in detail?

A That is correct.

Q Then I should like to ask you how did you compile these figures concerning the years 1943 and 1944. I am thinking especially of the balance sheets?

A They were taken from the same records as the figures for the other years.

Q I am interested in knowing whether for the years 1943 and 1944 you had final figures available in all cases, especially in compiling profits or whether you had to work to any extent with estimates or with preliminary figures?

A The year 1943 is all right but as far as the year 1944 is concerned figures are not available from all the plants so that the figures are based in part on estimates.

Q Thank you. Then I have one more question, concerning your affidavit on the profits of the DAG and Montan. This affidavit is in Document Book 37, page 137 and the following pages. This is document NI-10006. Do you have the document, witness?

Q This gives the profit of the GMBH for chemical products for the year 1943, as 16½ million approximately?

A Yes.

Q You will notice that this figure is in striking contrast to the figures given for the previous year where we have the fairly constant growing development; the leap from 2.5 million to 16.5 million is very noticeable, especially when we consider that there were air-raids during this period which in many cases caused a reduction. Can you explain these figures without any documentary material?

A No, I couldn't. This is merely an assumption on my part but I might explain that in 1943 nothing was done with the profits. That is to say, there were no reserves set up or anything like that. I couldn't give any reason, however.

Q Do you consider it possible that in this case, this is not the net profit but actually the gross profit because as a result of general developments recounting with the Reich, which took the lion's share, was no longer carried out?

A No, I don't believe that.

Q But you have no explanation for this obvious discrepancy?

A No, I can't give any at the moment.

Q Thank you, I have no further questions.

THE PRESIDENT: Any further cross examination of this witness?

DR. SCHUBERT (for Dr. Buergin): I have a few questions to put concerning documents NI 10004 and 10016. These are

Exhibits 691 and 692 in Volume 32.

THE PRESIDENT: Court 31, do you have the English reference, the page reference. If not perhaps the prosecution can supply it.

MR. SPEECHER: Your Honor I believe it is in Document Book 32 at page 68 of the English and just following and in the German page 70.

THE PRESIDENT: Thank you.

BY DR. SCHUBERT:

- CROSS EXAMINATION -

Q Witness, do you have these two documents before you.

A I have NI 10004 and what was the other one?

Q 10016.

A Yes.

Q Witness, in NI 10004 you have a list of investments of the Reich and then credits of the Reich?

A Yes.

Q: And you also mention under No. 3 subsidies of the Reich and under 5 lost subsidies of the Reichs. May I ask you what distinction you make between the categories 3 and 5, subsidies and lost subsidies?

A. Subsidies for contract plants. As far as I know these were subsidies for plants which were to be built according to contract with the Reich which was repaid not under sales but as depreciation that is to say, since the recipients of deliveries were as a rule Reich offices and Reich agencies were given the products at cheaper rates, while lost subsidies which, I may say, I did not know about until my present work, these were amounts which were not actually paid in these two cases mentioned here. But my information on this subject I have from documents obtained from Dr. Struss and documents in the legal section in Frankfurt.

Q. Witness, in the records of the so-called subsidies you have given in your affidavit NI 10016 you said they were reports of Johann. Phillippi and Company. Now you say they were records from the legal section.

A. No, I am only speaking about the second amount under No. 5.

Q. Then when you speak about records of the legal department you mean the contract with the Aviation Ministry?

Now, if I understood you correctly the subsidies given under No. 3 are sums which were to be paid back to the Reich in some way?

A. No, they were not paid back, at least not in the form in which one normally repays loans. These plants worked only for the Reich and the costs were not calculated.

Q. You just said that the Reich were given lower prices than normal.

A. Yes, that's right, the amortizations of these plants could not be included in the prices which the Reich had to pay for the products of these plants, that is to say, the Reich obtained the products at a lower rate because in effect they were Reich plants.

Q. Now, witness, under No. 5, lost subsidies, do you know to what extent they were used?

A. As far as I know they were not used at all.

Q. Neither of them?

A. No. But I can only speak with certainty as to the second sum. I am not sure about the second one.

Q. Thank you. I have no further questions.

BY DR. HEINZELER:

The defense counsel for Dr. Bueckfisch was not able to be present today and he asked me to ask one brief question for him.

Q. Witness, in your affidavit 10016 page 69, Volume 32 in the English, page 72, volume 32 in the German, you speak under Roman numeral II of Poolitz Hydrogenation Works, A G. From the introductory words of Roman Numeral II we see that figures are to be given here which concern Farben or companies controlled by Farben?

A. Yes, that is right.

Q. Do you know how great Farben's investment in the Poolitz A.G. was?

A. About 40 percent.

Q. I think it was 30 %. Would you consider that enough to call Poolitz a controlled company?

A. No.

Q. Then do you want to correct your affidavit in that respect?

A. Yes, one cannot call it a controlled company; that's right.

Q. Thank you, that is sufficient for the moment. Under Roman numeral IV in the same affidavit you are speaking for the East Tax Subsidy. The following table describes the depreciations of plants in the Eastern territories. Is it true that the advantage of this "Ostabschreibung" meant one could exempt from taxation as depreciation a higher percentage per year than normal. Is it true then to speak of a subsidy here if one remembers that a quicker depreciation in shorter number years means that in latter years depreciation occurs more quickly

and one has more taxes to pay. If you consider that such preferred depreciation itself is a question of shifting the burden of taxes to a different year, would you insist on the expression "subsidy"?

A. That is a difficult question to answer.

Q. But you concede that my train of thought is not illogical?

A. Yes that's right.

Q. I think that is sufficient for the moment. My final question: When you speak of credits in this affidavit are you certain that these figures given here are always credits which were actually used or aren't there some cases when these credits were granted but were not used?

A. I cannot say. A large proportion of these figures I obtained from statements of the TEA, that is, from Dr. Struss' statement; as the figures were taken from the books they are credits which were used but as I remember my affidavit and as far as they were taken from other sources they must be merely the amounts granted and not the ones used.

Q. Thank you, no further questions.

THE PRESIDENT: Is there to be any further cross-examination of this witness? None being indicated, the Tribunal would like to enquire if there is any re-direct examination by the prosecution.

BY MR. SPRECHER:

Q. Just one point, Your Honors. Mr. Witness, would you take Exhibit 711 which is NI 1005 and look at the column under 1943 where gross sales and gross profits are mentioned with respect to DAG. My objective, Your Honors, is merely to show that although it is perfectly true as Dr. Gierlichs pointed out there was a tremendous jump between 1942 and 1943 in net profits, the same point is shown with respect to both sales and with respect to gross profits on these sales which would have an influence upon the net. Do you notice substantial increase in both sales as well as net profits between the year 1942 and 1943 as far as DAG is concerned?

A. In case of DAG the increase in sales is not considerable.

Q. Dr. Deichfischer, that is perfectly correct. I was looking, I'm afraid, at the entry underneath that with respect to I.G. May I suggest, Mr. Witness, in behalf of both the prosecution and defense you attempt to answer later the difficulty which Dr. Gierlichs has quite properly pointed out and let us know in common what the answer is?

A. Yes.

THE PRESIDENT: Is there any further cross-examination? None appearing, the Marshal my escort the witness from the box and the Tribunal will now rise for lunch.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The prosecution may call the next witness.

MR. SPEECHER: The prosecution calls as its next witness, Dr. Hans Wagner.

THE PRESIDENT: We are short a quorum here, aren't we, so far as the counsel for the defense is concerned? We will go ahead because we cut your noon lunchhour a little short. They will probably be in in a few minutes.

MR. SPEECHER: Very well.

THE PRESIDENT: The witness will stand, raise his right hand, say "I", and repeat his name.

THE WITNESS: I, Dr. Hans Wagner.

THE PRESIDENT: And now repeat after me, I swear by God, The Almighty, the Omniscient, that I will speak the pure truth, and will withhold and add nothing.

THE WITNESS: I swear by God, the Almighty, the Omniscient, that I will speak the pure truth and will withhold and add nothing.

THE PRESIDENT: The witness may be seated.

DIRECT EXAMINATION OF

DR. HANS WAGNER

BY MR. SPEECHER:

Your Honors, this witness testified in connection with the first six affidavits which are listed in the memorandum of the 23rd of Sept., concerning affidavits previously, add him back in connection with matters concerning the last six affidavits which are listed.

Since the qualification of the witness generally appears from the first examination I won't go into that again.

Q. Dr. Wagner, you have before you the six affidavits in question, copies of them, - in the German language?

A. Yes.

Q. Did you have an opportunity to go over these affidavits briefly with me yesterday, and more extensively with Mr. Charantz this morning, in order to check, and thereafter to indicate any additions or modifications and clarifications which you now desire to make?

A. Yes, I had an opportunity to do so.

MR. SPEECHER: Your Honor, the witness has pointed out, in connection with Exhibit 618, Document NI-8980, which is in your book 35, English page 3, German page 3, several clarifications. On page 2 of the English text, and on page 2 of the German text, of the actual document itself, under Item 3, - that is, the paragraph headed "3", Dr. Wagner has some amplifications to make.

Q. Would you specify very clearly the beginning of the sentence, let's say, where the amplifications are to be made, so that both English text and the German text may be followed as closely as possible?

A. On page 2, under paragraph 3, I should like to add something. It says there, and I quote: "In the chronological order mentioned below, the I. G. Farben Industry during the years 1935 to 1945, developed the manufacturing process for the following poison gases, and carried out their manufacture". Between the word "manufacture", and "carried out", I should like to add, "with the exception of Oxol Lost". May I continue?

Q. Certainly.

A. On page 3 of the same exhibit, in the first paragraph, under (a), "Oxol Lost", oxol mustard gas. In the second sentence it says: "There were production installation at the firm's Lonslin in Berlin and Orgazid at Ammendorf since 1938 where, so far as I know, oxol lost was manufactured and stored"

I should like to strike the name, "Lonslin" in that section because it was only founded during the war, and I am not sure whether it actually Oxol Lost or whether it produced other substances.

The next correction is on page 5 of the German text, in the same exhibit, under (c), Nitrogen Mustard Gas, Nitrogen Lost.

MR. SPEECHER: That is over on page 4 of the actual English document itself, Your Honor.

THE WITNESS: It says there, the last sentence on page 5, "Dr. Ullrich and Dr. Palm from Ludwigshafen". So far as I remember, the second name should be Dr. Floetz and not Dr. Palm.

Q. Would you spell that last name?

A. Dr. P-l-o-e-t-z.

The next correction is to be found on page 6 of the German text, in the one but last paragraph, which is headed, "Direct Mustard Gas Process". There it says, in the second sentence.

"This method was somewhat strange, in so far as the experiments up to the Institute of Technology stage at Leverkusen were under the control of Dr. Noack, and the construction of the production plant proper at Trostberg, under the control of Dr. Ambros". "Trostberg" is false here. It should be Gondorf.

Q. Do you have any other corrections and amplifications so far as that document is concerned?

A. I have nothing to add to this document.

Q. Then would your Honors turn to Document Book 40, exhibit 734, at page 8 of the English, and page 11 of the German, Document No. MI-8979, on page 4 of the actual English Document, and under the item "e", which has parenthesis around it, there is a correction.

A. The firm Lonai is mentioned there; in that passage this name is to be stricken.

MR. SPRECHER: Have Your Honors found that? It is nearly at the end of the document, underneath the paragraph marked "O" and the witness merely wants to strike the firm Lonai.

BY MR. SPRECHER:

Q. Do you have any further corrections in that or any of the other five affidavits?

A. No further corrections to be made.

MR. SPRECHER: The Defense may cross-examine.

THE PRESIDENT: Any cross-examination of the witness?

CROSS EXAMINATION

BY DR. GATHER (Counsel for defendant Ambros):

Before the cross-examination may I make a short remark and request to the Tribunal? The witness Dr. Wagner is a chemical engineer. In his affidavit he mostly touched upon purely chemical questions. For instance, his affidavit, Exhibit 649, concerns N-substances; Affidavit 703 concerns calcium carbide; Affidavit 618 concerns poison gasses. This matter, from a material point of view, is so difficult to deal with that I think it is beyond the responsible control of a lawyer. A lawyer is not in a position to cross-examine the witness adequately. I think even some chemical engineer would be unable to deal with a number of the special fields. In order to assist in the search for truth, in order to expedite the proceedings, I should like to ask the Tribunal that it permit the Defendant Ambros, as an expert in this field of modern chemistry, to conduct the cross-examination.

THE PRESIDENT: That request is granted, and the defendant Ambros may conduct the cross-examination of the witness.

DR. GATHER: Thank you very much. I shall stay near him in order to assist him in question of procedure.

THE PRESIDENT: That is very satisfactory.

BY DR. AMBROS (DEFENDANT):

Q. Your Honors, may I start with the cross-examination of the witness with Exhibit 649, NI-9582, Book 36, page 46 and page 70 in the German?

Dr. Wagner, do you have this affidavit before you?

A. Yes.

Q. At first, just a little chemical corrections. From the chemical point of view, do you think it is possible that N-Substance can inflame itself with air?

A. I have observed how shots were carried out with N-Substances where organic substances were inflamed by that substance and it also inflamed itself.

Q. Dr. Wagner, you observed correctly, but isn't it significant that an organic substance was also present?

A. Yes, that is correct. The presence of an organic substance which is inflammable is a prerequisite.

Q. On page 2, on the bottom of page 2. Do you remember that there was any talk about war gases? Did you find out that this was in the connection with the fact that chemical engineers had misgivings about using this inflammable substance because the enemy could have interpreted such a use as the beginning of poison gas warfare.

A. Yes, I know that, and I mentioned that fact in my affidavit. You will find that in the middle of page 2.

Q. You are talking about disintegrating products?

A. Yes, I thought about these products first of all, but you may even have these misgivings in the case of N-Substance itself.

Q. I don't quite understand you. You say -- and

I quote: "From the beginning of the N-Substance production in the end of '43..." Don't you think October '44 would be more correct?

A. I remember a discussion with Mr. Peinert, an expert in this field, when he asked me to assist him in getting some help from the I.G. As far as I remember, this took place at the end of 1943, and I believe that the Army Ordnance Office, as from that time, had disposed of the first substances in order to carry out tests.

Q. That is true, as far as this period of time is concerned, but wasn't it an installation of the Army Godoff?

A. It is possible that the first substances for this test came from Godoff. I cannot tell you with absolute certainty because this matter was kept very secret by the Wehrmacht, and information about these matters could only be transmitted after an obligation was made to keep these matters secret.

Q. Yes, you are right; it was a particular pride of the Wehrmacht to protect this very peculiar substance.

In the last page, I think you have made an error, and I quote: "Ambros took care of the production of war gases produced in Falkenhagen."

What production was this in Falkenhagen?

A. I said those war gases which were to be produced in Falkenhagen. That is what I mean.

Q. Very well. The next affidavit is Exhibit 703, NI-9272, Book 37, page 9, page 11 of the German.

Witness, under paragraph 2 you say "The German peacetime consumption of synthetic rubber, Buna, is to be placed according to reliable estimates, which were considered authentic by I.G. as well as by the Four Year Plan authorities, at 80- to 100,000 tons per year."

"Within the framework of the Four Year Plan, however,

the following capacities were envisaged for synthetic rubber production within the I.G..." and then you enumerate the figures.

Dr. Wagner, do you know that the capacity of the Buna Plant Schkopau, as it was determined within the framework of the Four Year Plan, amounted to 25- to 30,000 tons?

A. That, as far as I know, was the first determination, but which was then increased to the figure I mentioned, namely 72,000.

Q. When was it increased?

A. As far as I remember, this was done before the war.

Q. Wasn't it rather true that we started with 2,000 tons, and, at the beginning of the war, not even had 20,000 tons?

A. I cannot remember this figure exactly as to when it was reached. I only know that we in the Vermittlungsstelle, from time to time, received figures about Buna production. We received these figures in order to transmit them to a Reich office. I also know from discussions which I had in the last few months that Schkopau had a capacity of 5,000 tons per month, that is 72,000 tons per year. As far as I know, I believe I can remember that this capacity was reached about the time of the outbreak of the war.

Q. Let me help you with a chart which had some official character. (Document presented to witness.) These are tons per month. Can you see from this chart that only in the year of 1940 -- and that is the first quarter of 1940 -- we went beyond 20,000 tons?

A. Yes, according to this chart, that is true.

Q. I think it is quite easy that you forget something like that is view--

MR. SPRECHER: Your Honors, could we have the exhibit identified? It was described by the defendant as an official document, and we naturally would like to be able to check that matter.

THE PRESIDENT: Well, of course the denomination of the document as an official document by the Defense is not binding on the Prosecution. If it is to be considered in evidence it should be marked as an exhibit, and if Counsel for the Prosecution is willing that it be marked as an exhibit, and is subjected to the scrutiny of the Court in due course -- that is very well. Is that your desire?

MR. SPRECHER: Well, I just thought that since it had been used by the witness we might have it identified, even though possibly it might not be offered.

THE PRESIDENT: Very well. The document may be identified, if my memory serves me correctly, as Exhibit 4 of the Defendant Ambros, and it will be available to Prosecution for examination.

BY DR. AMBROS (DEFENDANT):

Q. Now, we have agreed that Schkopau, within the framework of the Four Year Plan, had a capacity of 25- to 30,000 tons. Is that true?

A. According to the chart which you submitted to me, that is true.

Q. Do you know what Huls's capacity was? As it was planned as the first phase extension by the Four Year Plan.

A. As far as I know, it started with 25,000 and then, later, reached 36,000.

Q. That is true. Well, around the time of the Four Year Plan it was 25 to 30,000.

Witness, if you add these figures, you would arrive at 50- to 60,000 tons. Now, you are rightly pointing to another plant -- Leverkusen -- with 4,000 tons.

Dr. Wagner, do you know that Leverkusen did not intend to produce ordinary rubber, but Perbunan?

A. Yes, I know that.

Q. Do you think that I am justified in saying that this is not just Buna -- but a special product?

A. One might say that under certain circumstances.

Q. Am I not justified in designating Perbunan as an export article, and that during the last few weeks before the war it was sent to America and England in decisive quantities?

A. Yes, that is true.

Q. Is it not true that all U-boats of the English used Perbunan?

A. Yes, I think I can remember that.

Q. If we add now, we find here 60,000 tons of Buna as compared with a peacetime demand for 80- to 100,000 tons; is that true?

A. Yes, that is right.

Q. You go on to say that carbide, as far as it is used as a basic substance for the production of synthetic rubber, went beyond the production capacity for I.G. installations for peacetime production in the same way as Buna. May I clarify this question in the same way as I clarified the previous question?

A. As far as you consider peacetime consumption, you are right, too.

Q. Thank you.

THE PRESIDENT: Now, Counsel, is it your desire to offer in evidence as an exhibit the paper marked Exhibit 4 of the Defendant Ambros?

DR. GATHER: Yes, Your Honor.

THE PRESIDENT: Then it will be received in evidence. But, as your presiding officer, I am a little troubled about defendant's exhibits. You will recall, perhaps, that previously, when your client was cross-examining a witness there were two exhibits that were called "Trees"-- do you remember those -- that Dr. Ambros produced and were marked as exhibits; and then there was a third that I just at this moment recall. I don't think copies of those have been made available to all members of the Tribunal. It is important, in the consideration of this case, because of the large volume of documentary evidence that we keep all our files complete, and I wish you would undertake to see that each of us receive copies now of all four of these documents numbered Ambros exhibits 1, 2, 3, and 4. If you have any difficulty in the matter of getting copies, take it up with Counsel for the Prosecution and work out some way of reproduction so that our files may be complete. That doesn't need to be done now, but keep it in mind and see that we are supplied with copies. Thank you.

DR. GATHER: Yes, Your Honor. Let me just explain something. Today I have given the Secretary General particulars relating to the three exhibits which were already offered, and I think that in this manner we shall solve the technical problem very quickly.

BY DR. AMBROS (DEFENDANT):

Q. Now, Dr. Wagner, let us now deal with the question of gas. As the Document MI-8980, you have made an affidavit which is to be found in Book 35, page 1 of the English and page 3 of the German.

Dr. Wagner, how did you get knowledge of all those facts?

A. These facts became known to me as a result of my activity in the Vermittlungsstelle-W, as a result of discussions with gentlemen in the plants, as a result of study of the patent registrations, and,

finally, as a result of studies of the files available in the Vermittlungsstelle-W.

Q. Were these files complete? Or, as a result of this exaggerated secrecy, top secret matters, etc, didn't you lose many a file, and it wasn't present?

A. I would assume that the files approximately up to the year 1938 were rather complete. From that period on, however, and in particular as far as we were concerned with the Sarin and Tabun about which I can give you no information at all, the files were no longer complete.

Q. We are in complete agreement. Your reportage cannot be quite complete.

A. Certainly not as far as it concerns these two mentioned products.

Q. Your main task, as you stated here initially, was to deal with questions of patents of Sparte-2 and also of questions of development work of that Sparte. Is that true?

A. Yes, in addition there were questions of delivery within the sphere of Sparte-2.

Q. Dr. Wagner, what was your development work in the case of war gasses with which you dealt?

A. In the field of war gasses I participated in the development of Adamsite, at Verdingen. I had rather detailed knowledge about the tests at Leverkusen regarding direct mustard (direct lost). I was informed about the production process of chloro-acetophenone at Ludwigshafen, and I also participated in the construction of the phosgene filling installations in Wolfen which was the Z-installation of the Farben factory. Nitrogen mustard gas is known to me on the basis of file notes, on the basis of conversations with Dr. Ullrich and his associates.

Q. That is sufficient. Now, I have to go through page after page with you in order to get at the facts. Was Sarin ever produced at

Dyhernfurt?

A. As far as I know only Tabun was produced at Dyhernfurt -- that is, on any large technical scale.

Q. But, on page 1 you write -- Well, I think I can forego this question.

Did the I.G. ever produce Sarin?

A. I cannot reply to that question from my own knowledge because, as a result of the secrecy around this field, I found out too little.

Q. But you don't know positively that it was produced?

A. No, I cannot state that positively.

Q In spite of the fact that you did not or were not allowed to visit the plant at Dyhrornfurt, do you know what else was produced there?

A No; I know no details about that.

Q You are saying that both these gasses which were produced in Dyhrornfurt were also to be produced at Falkenhagen? What was to be produced in Falkenhagen?

A I thought that tabun and sarin was to be produced there and this was to be an evacuation plant.

Q On Page 2 you say, "In the plant at Falkenhagen which partly belonged to the Wehrmacht and partly belonged to the I.G."

Is it not true that this Seewerk plant there, that is, the Seewerk Falkenhagen, where the I.G. neither accepted possession nor entered into a lease agreement with the Wehrmacht, but was only prepared to carry out work there on the basis of management -- do you remember the case, and it was a case at that time?

A I remember that there was a great deal of controversy about the management of this plant.

Q Mr. Wagner, I asked you about possession, lease and management.

A Yes, I understood your question. I am not informed about the conditions of ownership. After all, this is something which was outside my sphere of work. I only know that there was a controversy about the management of this plant which was to have been conducted jointly by the OKH and the SG, particularly there were differences with Dr. Kluge, who made work in this plant extremely difficult. Perhaps I made some unjustified conclusions as from this situation.

THE PRESIDENT: Just a moment. You are going a little too rapidly for the translation staff.

DR. AMBROS: I am sorry. I was excited.

BY DR. AMBROS:

Q In that case we can strike the first three lines. Do you believe that at that time it was all very simple to assert one self against three authorities to be?

A I never believed that.

Q Let us pass to the next point. "With reference to Anorgana Company, which was mainly in charge of production of poison," I don't quite understand that. Do you know that the main turnover of Anorgana certainly didn't consist of poison gases but consisted of far more reasonable products? It is clear to you that the main part of war gas production was not borne by the I.G. but by other firms?

A With this sentence I intended to express -- and I am referring to the sentence which you just quoted -- that a considerable part of the firms who depended upon I.G. produced poison gases through the Anorgana. I was referring to Anorgana and I was not referring to the home plants of I.G. With that I didn't mean to say that Anorgana predominantly produced poison gases.

Q But now the other question too has been introduced to this courtroom. Is it true that the main weight of war gases was neither borne by the I.G. nor by the firms which depended upon the I.G., even they only depended upon the I.G. technically?

A To this question I cannot give you a binding reply because I am not acquainted with the production figures of these firms which were outside the I.G. for the well-known reasons of secrecy.

Q You have not been given an insight into American official reports about the German war gas production, have you?

A I have had no insight into these official files. I only gave my affidavit from my memory.

Q On Page 3 of your affidavit you are discussing Oxol Lost and I quote: "Oxol Mustard Gas was developed by the I.G. Farben Industry in collaboration with the High Command of the Army in Ludwigshafen."

Dr. Wagner, I think you made an error. Do you know who the inventors of Lost are?

A Yes. That happened in the first World War. I think it was Steinkopf and Lommel.

Q (L-o-s-t?) ST-einkopf and LO-mmel, L-OST-

A Yes, this is how the name originated.

Q These were such good chemical engineers that there was nothing left to develop, was there? Is that true?

A As far as the old process was concerned, that is true. But I remember that in Ludwigshafen a process was developed which starts from Ethylene Oxide and then led via hydrogen Sulfide to thiodiglykol.

Q I think we would be in entire agreement if, everywhere in your affidavit, instead of Oxol Lost you would put down just Oxol.

A Yes. I think this limitation can easily be made because in the last stage of the change of thiodiglykol with hydrochloride acid into Lost there was really nothing more to invent or develop.

Q In that case the first word on Page 3 would have to read Oxol and then it would be right, would it not?

A Yes, I said Oxol Lost because the entire affidavit deals with the final products.

Q But in this case it is wrong is it not?

A As far as we are concerned with the new process we only have the Oxol stage.

Q That is actually what I imagine. Now, the fourth line was already corrected by you. You struck Lonal. I don't know what Lonal is or where it is.

A Well, that is the firm of Dr. Eng lhardt.

Q Now, Dr. Wagner, an interesting point: The firm Lonal and Orgazid did not belong to the I.G. Farben Industry from the organizational point of view, but merely from the economic point of view.

Quite briefly, I think we are only discussing the Orgazid here since we both are not acquainted with Lonal. Did the I.G. have any participation in the Orgazid? Yes or no?

A No, not directly.

Q Did the I.G. have the management there?

A No.

Q Was the I.G. in the business management?

A In the Aufsichtsrat?

A That I don't know.

Q Do you know this happy man?

A No.

Q Well, what is there left from an economic point of view?

What was I.G.'s share?

A I am not quite clear to what extent connections existed between Auer and this firm, or through Auer

Q Do you know that Auer was a child of Debussa?

A Yes.

Q And we have no participation in that firm, you know.

Doctor, don't you believe that your next sentence, which deals with visits from Ullrich and myself can be clarified because of the mistake you made with Oxol.

A I can remember, according to what you told me, and according to what Dr. Ullrich told me, the main point of controversy was always the ethylene oxide of oxol which, in the final analysis, leads to Lost gas.

Q Is it correct that the I.G. made a very sharp distinction between the preliminary product on one side and Lost on the other?

A This distinction was always made out very strictly.

Q Then are we in agreement that my visits referred to the preliminary product and not to the final product?

A I never attended such visits but it is quite possible

that perhaps these visits limited themselves to the preliminary product.

Q Now let us turn to Gendorf. You write in your affidavit that two productions were carried out there: On the one hand you had the Anorgana-Gendorf which had an Oxol Lost installation which, however, was not in operation and, furthermore, the Orgazid had an installation there and that is to be found on Page 3a where Lost was produced.

Now, Dr. Wagner, I have obtained a map of Gendorf. Can you show me where these two factories are? Were you ever there?

A Yes; I was there once. Yes, I know that. (Document handed to witness.

Q Can you give us the installation numbers of these two buildings?

A As far as I remember, the plant of the Orgazid was left before the entrance to Anorgana. If I recollect exactly, these are the buildings, 401, 402 (indicating). Everything on the right hand side was Anorgana-Gendorf.

Q Correct, Now Dr. Wagner, you are saying that there were two plants there. Let me brief. Here again you are making this mistake about Oxol. On the right hand side you find the I.G. Farben Industry producing the preliminary product. And literally in actual fact they are building a fence there and on the left hand side you have the entirely strange Orgazid. They are entirely alien to us and they are producing the poison gas. But in Gendorf not even that is true because none of them are producing it.

MR. SPEECHER: I couldn't tell whether the last statement was a question or testimony by the defendant and I am just wondering if the witness is expected to answer.

DR. AMEROS: I will repeat.

BY DR. AMEROS:

Q If your statistics in Berlin or in the new report on chemical warfare surveys, did you find that apart from Ammendorf Oxol Lost was anywhere produced in Germany?

A As I said before, I have had no reports at my disposal on that matter and I did not know the files of the special committee C. I can only base myself upon my memory and upon what I recollect from before.

Q But since you are saying that in the affidavit here I must fight against your statements and that is the very reason why I am asking you. Then you are not sure, are you?

A I have no positive material on that. At least I didn't see it.

Q The next chapter is Chloro-acetophenone. I think we can skip that because Mr. Elias only a short time ago agreed with me that it was only a tear gas, a lacrimator. Let us go to the Nitrogen Lost.

DR. AMBROS: Your Honor, permit me to give some explanation. There is a terrible confusion in all code names, chemical names and trade names.

BY DR. AMBROS:

Q Dr. Wagner, let us agree chemically, first of all, N-Lost is trichlorotriethylamine. Is that true?

A Yes.

Q This is the poison gas, is it?

A Yes.

Q The preliminary products or, rather, the intermediates of the I.G. are: the C6 base which is ordinary Tri-Ethanolamine. Is that true?

A Hitherto it has been my opinion that the C6 base was the free nitrogen Lost; and the C6 salt, the Nitrogen Lost hydrochloride, that means, it contains one molecule HCL on the nitrogen.

Q As a chemical engineer can you understand why C6 base can be the name for Tri-ethanolamine? Isn't it because there are six C atoms?

A But that also applies to the finished product. That is why there is a misunderstanding.

Q But you can believe me it is as I say. The word "Leverkusen" was corrected by one of the gentlemen before. It is really Ludwigshafen. You will find that on Page 5-a.

A Yes, it should read Ludwigshafen.

Q We imitated the American work, did we?

A (No response.)

Q Palm and Floetz were just corrected by you. And now, Dr. Wagner, on Page 6, did Ludwigshafen ever produce Nitrogen Lost hydrochloride or are you merely confusing it with the C6 salt, the harmless intermediate?

A Yes, C6 salt is meant with the explanation we just made, that is to say, the preliminary product, yes.

Q In the case of direct mustard gas you substituted Gendorf for Frostberg. Perhaps other gentlemen will deal with the other questions concerned with war gases. But, Dr. Wagner, let me put one last question to you which is perhaps more within your field. It is a question regarding patents. You said that in your capacity in the Vermittlungsstelle you worked on all patent registrations and on the basis of that activity you determine your attitude on Page 6, top of the page. You are referring to Nitrogen Lost and you say: "The work on the development of this process would have resulted in a German patent registration which, however, did not come about by request of the army ordinance office but was treated as a secret patent. I believe that if this patent was publicized there would be foreign publications and it would not have been advisable." You were probably thinking of the American patent of Keilbrand, were you?

A That is quite right.

Q Now, Dr. Wagner, a certainodium penetrates into the courtroom when you use the words "secret patent". Do you know that the I.G. registered this process in May, 1935 in England? They registered that with complete specifications in the year of 1936 and then it received British patent number 456383.

A I don't know that and I really couldn't know of it because the foreign patents at the time you mentioned did not go through the Vermittlungsstelle. I only know the files concerning German registrations about which I had detailed discussions with Dr. Ullrich at the time.

Q But do you perhaps know of a later patent about the same subject which was registered in the United States Patent Office, 2,072,348, or does that fall within the same period?

A Yes; I think it does, because I don't know if it.

Q Dr. Wagner, during a later period, that is, 1941, and that falls outside the period you just mentioned, in your function in the Vermittlungsstelle and probably upon the request of an officer you sent a cable asking whether there are any further registrations beyond that patent. Do you remember that?

A No; I couldn't possibly remember it today.

Q Do you know that afterwards we replied by cable that we had registered and patented this "secret matter" in England, America, Japan, Canada, Holland, Italy, Switzerland, Czechoslovakia, Belgium, France?

In other words, as one usually does with a "secret matter" we publicized the text! Do you really believe, Dr. Wagner, that this could be a secret patent if we informed all countries about that, even the Czechs and the Swiss and the French?

A As far as I remember, this secrecy was ordered by the OKH (High Command of the Army) at the time and I think it was originated by Herr von Mühlenheim? I don't know of the later telegram exchange and correspondence.

Q The last question, Dr. Wagner: Isn't this procedure a further proof of the fact that the I.G. carried on chemistry with peaceful even international aspects even in cases where the army wanted to benefit from it?

A Yes.

DR. AMBROS: Thank you very much.

THE PRESIDENT: Is there any further cross examination of the witness?

DR. GIERLICH: Mr. President, it is not my intention to put questions to the witness. Dr. Lummert, who was present during the beginning of this session, had been called to another court. It was his

intention to put a few questions to the witness and he asked me to
make a request to you that he have an opportunity to do so after the
recess.

THE PRESIDENT: Very well. Is there any redirect examination
at this time?

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THE PRESIDENT: Very well. Is there any redirect examination
at this time?

THE PRESIDENT (continuing): I may have assumed too much. Will there be any further cross-examination of the witness on the stand beyond that to be conducted by counsel who is temporarily absent?

Do you wish to continue with redirect at this time or would you prefer to wait until after the completion of the cross-examination?

MR. SPRECHER: It is the same with me. There are only one or two questions, just so I have made an announcement before you declare a sudden recess, your Honors, may I ask that after this recess you bring in your books, 17, 46, 47 and 48. This is further material dealing with Section 1 g of the indictment, - Section G, Count I of the indictment. I will repeat. 17, 46, 47, 48.

THE PRESIDENT: Thank you.

RE DIRECT EXAMINATION

DR. HANS WAGNER

BY MR. SPRECHER:

Q Witness, the defendant Ambros made some reference to Prosecution's Exhibit 703, paragraph 2, where you made the statement within the framework of the Four Year Plan: "However, the following production capacities were envisaged". Now do you mean to talk about actual production in that affidavit?

A Yes, I wanted to say that in these three plants I mentioned, production was carried on to the extent of the figures I mentioned.

Q I have here some figures given by Dr. Struss which would indicate that in the year 1939, I. G. or its controlled companies, produced approximately 22 million metric tons in the year 1939, which more or less corresponds to the figures which the defendant, Ambros, suggested, and I am not quite clear whether or not there is any problem between those figures and your statement, because at least, in the English text, you talk about the following production capacities, just before you list the 72,000 tons underneath "Schkopau".

A I believe that this discrepancy can be explained by my obviously incorrect assumption that the production of Schkopau, before

the war, amounted to 72,000 tons per year. I have remembered that figure and have had an opportunity a short time ago, to inform myself at the former TEA office that the capacity of Schkopau and the production possibilities of Buna, was 6000 tons per month, which equalled 72,000 per year. However, it is possible, even probable, on the basis of the document submitted by Mr. Ambros, that in my memory I determined the time too early as to when that production capacity was reached.

* The Struss figure is given in NI 10006, which is already in evidence. I do not have the exact number, but I am sure it will come up tomorrow.

Now, witness, in connection with registering of a patent, is it necessarily so that the know-how necessary to make the product will be obvious, merely from the facts given at the time the patent is registered?

* On the whole, it is usual that the essential aspects regarding production possibilities are stated when registering a patent, but the person registering that patent always has the right to supplement the original registration in the course of the procedure, by specific examples and more specific statements. In other words, a patent registration can be made already at a time when only a very approximate description of the process is given without any detailed examples.

DR. SPRECHER: No further re-direct.

THE PRESIDENT: If there is no further cross-examination of the witness at this time, the Tribunal will rise in recess until counsel returns to the courtroom that is to cross-examine.

(After recess)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The cross-examination of the witness may proceed.

CROSS EXAMINATION

DR. HANS WAGNER (Continued)

BY DR. LUBERT, counsel for defendant Kushe:

Q. Witness, first of all I want to ask you something about your affidavit NI-8990, Exhibit 618. This is in Document Book 35, page 3 in both German and English. Witness, may I ask whether you have this affidavit before you?

A. Yes, I have it.

Q. Will you please look at the part of this affidavit which refers to DI-Direct Lost? That is on page 13 in the German book. You say that the Direct Lost process was developed in Leverkusen in 1938-1939. Do you remember whether this was a military assignment?

A. Yes, I know that.

Q. Do you also remember that this assignment was sent to Leverkusen only because apparatus was available there for the well-known old Lost process which was to be used in this case also for working out the process?

A. I do not know whether that was the only reason. I do know, however, that this apparatus was available.

Q. Then I understand you to say that this development of the process was not initiated by Leverkusen?

A. No, that is not what I meant to say in the affidavit.

Q. Very well, Now I have a very few questions on your affidavit NI-9582, Exhibit 649, which is in Document Book 36, page 70 in the German, page 56 in the English. Do you have this affidavit?

A. Yes.

Q. You say on the second page, page 71 in the German Document book, I shall quote briefly: "As far as I know, the I. G. Leverkusen manufactured this product on the trial basis approximately during

1942/43 in the inorganic laboratory (Dr. Noack), and that was done on orders from or in connection with the WA Pruef 9 Division of the Ordnance Office of the Army, Ministerialrat von der Linde". By way of explanation, I would say that this product was chlortrifluoride, also known as C-3 or N-substance.

Now do you recall that this assignment was given to Dr. Noack, without his being allowed to tell his superiors, especially the defendant Kuehne, about it. Is that correct?

A. That may be, because C-3, as I believe I said before, was kept extra secret and I can imagine that the Army Ordnance office made such a condition when it issued the assignment to Dr. Noack.

Q. Do you recall that there was a serious altercation between the Army Officer concerned, and the defendant Kuehne when the latter by chance learned of this assignment?

A. I cannot remember with certainty.

Q. Do you recall that the defendant Kuehne had to sign a secrecy regulation which you gave him before he could learn anything about the details of the experiment?

A. I believe that this special secrecy pledge had to be signed in connection with the DL process, but I can imagine that it was extended to the N substance as well.

Q. Witness, now I should like to ask you whether you know that C-3 through Professor Ruff in Breslau, had become known in literature to many, and that the alleged unusual and sinister effect of this substance turned out to be a bluff, and that the army ordnance office had been fooled by it. Is that true?

A. Yes, its true that C-3 was presented by Professor Ruff and Breslau, 15 or 20 years before. It is also true as I said in this affidavit, that the application of the substance and its importance were strongly disputed, and I know that all sensible chemists, and ordnance experts, rejected it. So far as I can recall, the assignment was issued only to Noack because he was a student of Ruff, and conse-

quently had greater experience in the field of fluorine.

Q. Witness, do you know that in Leverkusen in the beginning of the 1920's a moth killing agent was produced which was a fluorine salt, and that since that time, work was constantly being done on fluorine compound in Leverkusen to discover a new commercial use for fluorine compound or compounds?

A. I know that such work was constantly being done in Leverkusen and also that in this field patent applications were registered.

Q. Do you know also that in these experiments and investigations in 1932, chlortrifluoride was produced experimentally and tested for its technical effectiveness?

A. No, I didn't know that.

Q. Q. I have only one final question then concerning the affidavit, NI-8970. That is - I don't have the exact exhibit number. It is in document book 40, page 11 of the German, page 8 of the English. There you say, on the third page, page 13 at the bottom in the German document book that supplies of Kaolin and bauxite were available in Leverkusen before the war broke out. I should like to ask you whether this is not a mistake.

A. It was intended to obtain the necessary fluorine raw material for the production of potassium fluoride which were stored in Leverkusen and which are not contained either in Kaolin or Bauxite alone. Leverkusen produced potassium fluoride and made deliveries to Wolfen or the Wehrmacht respectively.

Q. But if I understand you correctly, that is something else from what you say in your affidavit. Do you know that Bauxite or Kaolin were never worked on or stored in Leverkusen?

A. The supplies for synthetic krollith were in Oppau as far as I know.

Q. Then not in Leverkusen.

A. No, not in Leverkusen.

Q. Then that is a mistake?

A. Yes, that is a mistake.

THE PRESIDENT: Does the defense desire to cross-examine the witness further?

It does not so appear. Is there any re-direct examination.

MR. SPRECHER: The prosecution has none.

THE PRESIDENT: Then the witness is excused and the Marshal may escort him from the box.

The defense may call the next witness. I mean the prosecution.

MR. SPRECHER: The next witness we had announced was Frank-Fahle. He took ill or was ill upon arriving here, and is so indisposed that he cannot appear today. Now the prosecution had merely announced Dr. Struss for tomorrow, and I have heard recently from Dr. Berndt who says, of course, that he is speaking only on behalf of himself, that with respect to some 15 of the 45 documents, he has no cross-examination, and that it is very unlikely that the cross-examination will take more than one hour. In view of the past history, the prosecution is pleasantly surprised by that development. However, I am not quite sure what Dr. Struss's position is with respect to these other matters, -- I mean Dr. Berndt's position. I have not been able to talk to him, or he has not been able to talk to me. However, it may be now, apart from the announcement I made to your Honors before, concerning witnesses, where a waiver had been made by the defense, I have had absolutely no further communications from the defense concerning this rather difficult problem, particularly since one must schedule these witnesses in an orderly way, except that I had a private note from Dr. Nelte, for the defendant Hoerlein, concerning three witnesses, and I received that last week, and ever since that time I have been trying to find Dr. Nelte without success, in order to discuss with him what I think are some very fundamental misconceptions on his part concerning what cross-examination must be conducted in case these witnesses are called.

Now I have mentioned this problem to Dr. Beottcher again today and he states that the defense will hold a meeting tonight and that

possibly we can make some further arrangements. But I only want to lay before your Honors, the fact that if the prosecution cannot produce some of the witnesses when the defense may later be interested in, it may have some relation to the fact that there has been no prompt notification to us concerning some 30 or 35 witnesses, and no one apparently so far has been able to speak on behalf of the defense with any binding authority with respect to these matters.

Now we plan, lacking any further suggestions or any further basis for making a plan with the defense, we plan next week to call in a considerable number of witnesses, but in many cases it might very well be if we could have the basis for discussing these matters with the defense, that some of these things could be arranged on a much more orderly basis, but if we do not have the basis for making a program, the prosecution merely has to keep taking the initiative.

Now we have, as you have noticed, cleared out, - assuming that the Struss matter is covered tomorrow, - we have cleared out well over 120 of the affidavits by virtue of later cross-examination. I want to announce that it may be necessary for us to call tomorrow in addition to Dr. Struss, Dr. Kurt Krueger. I have already had a number of notices drawn up with respect to other witnesses, and I will get them out as soon as possible.

Now, your Honors, under the circumstances, we would like to go forward with the documents in connection with Section G of Count I and Mrs. Kaurman of the prosecution staff will present those materials.

THE PRESIDENT: Are these in the books we want for at recess?

MR. SPETOWER: Yes, Your Honor.

THE PRESIDENT: Before we start on the receiving of additional documents, the Tribunal will appreciate the efforts of the defense to reach an understanding as to what its policy may be concerning the cross-examination of the authors of the affidavits that have been received, and if you will do that and advise the prosecution, as promptly as possible, Dr. Baettcher, it will expedite matters.

MRS. KAUFMAN: If the Tribunal please, the next series of documents which appear in Book 46, which the prosecution will offer at this time, concludes the prosecution's offering of documents, which relate primarily to the sections F and G of Count I, concerned with the propaganda activities of the defendants.

The prosecution offers as its Exhibit 825, Document NI 950, which appears on page 1 of the English document book and page one of the German Document Book. It is a cable dated 19 September 1939, from Ambassador Ott in Tokyo to the Foreign Ministry concerning the receipt of 100,000 yens from I. G. Farben for propaganda purposes.

DR. BACHEN, counsel for Dr. Ilgen: Your Honors, I should merely like to ask that in the index where information is given to this document and the following document, and document NI 068, that you put a small question mark there, since we are of the opinion that the descriptions given in the index to the effect that these concerned contributions by the I.G. for propaganda purposes are not quite correct.

THE PRESIDENT: That has been done.

The prosecution may continue.

BY MRS. KAUFMAN: Thank you.

May I ask the Tribunal, did I understand the defense to mean that there was a question concerning the translation of the document?

THE PRESIDENT: No, I think your associates know that that merely relates to the scope of the index description which in some instances,

the defense has said, is calculated to mislead the court. It need not interfere with your introduction at all.

BY MRS. KAUFMAN:

The prosecution offers as its Exhibit 826, Document NI 1104 which appears in the English document book on page 3, and in the German document book on page 4. This is a telegram dated 29 April 1941 from the German Ambassador in Argentina to the Foreign Office with respect to a 300,000 peso credit, arranged for the Embassy through Bayer. This document indicates the devices used by Bayer to cloak the beneficiaries of these transactions, thereby evading local currency controls.

The prosecution offers as its Exhibit 827, Document NI 7666, which appears on page 5 of the English Document book, and page 6 of the German Document book. This document consists of minutes of a Bayer's directors' meeting of October 1943, presided over by the defendant Mann, at page 8 of the English and page 11 of the German text. It is noted that a fine was imposed on I.G.'s, Chimica Bayer Ltd for illegal transfers to the German Embassy.

The prosecution offers as its Exhibit 828, Document NI 068, which appears on page 11 of the English document book, and page 15 of the German document book. This is a telegram of 6 June 1941, showing illegal transactions on behalf of the Embassy in Spain.

The prosecution offers as its Exhibit 829, Document NI 10644, which appears on page 13 of the English Document Book and page 18 of the German Document Book. This is a report by the American Consul at Medellin, Columbia, to the U.S. Secretary of State, concerning the propaganda activities of Kurt Schab of Case Bayer, in Columbia, and of other Case Bayer employees.

The prosecution has used Latin America chiefly to support its allegations with respect to the pertinent sections of the indictment. However, as a next series of documents will show, there was similar activity in Europe as well.

The prosecution offers as its Exhibit 830, Document NI 5753, which

appears at page 18 of the English Document book and page 20 of the German Document Book. This document notes contributions made to the German-Dutch Chamber of Commerce.

The prosecution offers as its next Exhibit, 831, Document NI 1331, which appears on page 21 of the English Document Book and 24 of the German Document Book. This document consists of minutes of a meeting of the department heads of Berlin NWF on the 21st of May, 1940. It is noted in these minutes that a proposal was made for a contribution for a Nazi publication, Don Fascio in Holland.

The prosecution offers as its Exhibit 832, Document NI 6139, which appears on page 24 of the English document book and page 26 of the German Document Book. This exhibit consists of 2 letters, the first of which was sent by the Political Economy department of I.G. Farben to the defendant, Mann on the 14th day of August, 1940, and the second sent by the Political Economy department to Director Mentzel of Leverkusen on the same date, and is concerned with a mailing list in Spain and Portugal as well as South America, requested by the Reich ministry for Propaganda, and suggests that the covers be addressed at Leverkusen. The mailing list involves a total of 43,446 addresses.

The Prosecution offers as its Exhibit 833— No, I beg your pardon. The next document which is marked NI-7793 is one of the documents referred to in Mr. DuBois' statement this morning which the Prosecution will not introduce at this time in the interest of expediting the trial.

The Prosecution offers as its exhibit 833, Document NI-6221 which appears on page 29 of the English document book and page 31 of the German document book. This document consists of minutes of a conference on Czechoslovakia held on the 17th of May 1938, over four months before "Munich" and before Germany occupied the Sudetenland, at which the Sudeten situation was thoroughly canvassed, and Farben's plans with the Sudetenland were discussed.

I should like to read at page 29 of the English and page 31 of the German. I read that paragraph under the item marked "General Situation." "Soebohn gave an introductory report; he stated that after the incorporation of Austria in the Reich, tension had increased in the Sudeten-German parts of the country and that in all sectors of population the political and industrial organizations were being reconstructed according to German pattern and to the tenets of National Socialism."

Among the many items discussed there are set forth remarks with respect to the Sudeten-German press, which I should like to quote-- and that appears at the bottom of page 33 of the English and on page 37 of the German text..

"The Information Office had for some time been endeavoring to publish articles of general and particular interest in Sudeten German newspapers, and to this end was making use of the "Wirtschaftsund Zeitungsdienst G.m.b.H" a company--" that is an Economic and Press Service Incorporated--" a company sponsored by the German authorities. These articles were intended to serve as a preparation for a gradual financial strengthening of the Sudeten-German newspapers by advertisements."

And, on the following page, in an item marked "Proposed Action" considered by I.G., the document states:

"The Information Office, in collaboration with the sales combines would specify the newspapers which were to be sponsored, inasmuch as they were suitable for advertising our marketable products. The papers were then to be supplied with articles by the Information Office and given advertisements for insertion in order to support them financially."

"Furthermore, those newspapers which had political importance, and periodicals which published articles and reports with a general bias in favor of I.G. without actually giving publicity to our products, were to be supported by being given items for publication as regularly as possible."

JUDGE MORRIS: May I inquire, you do not contend, do you, that any of the defendants attended this conference--or are they indicated in attendance? I just glanced through the list and I did not notice any names.

MRS. KAUFMAN: Well, I will look at this document. It appears from those present at the conference that none of the defendants were present. However, responsible department heads were present at this conference.

JUDGE MORRIS: I just wondered if any of the defendants were present. Thank you.

MRS. KAUFMAN: The Prosecution offers as its Exhibit 834, Document 1318, which appears on page 36 of the English document book and page 42 of the German document book. This exhibit deals with the Preoccupation contributions to certain Sudeten-German organizations. The Prosecution respectfully refers the attention of the Tribunal to the letters of 22 September 1938, set forth at the bottom of page 36 of the English and page 42 of the German, which indicate a contribution of 100,000 Reichsmark to the Sudeten-German Free Corps, a subversive organization engaged in inciting border skirmishes and riots.

The correspondence was directed to the Defendant Schmitz from the

Office of the Central Committee and to the defendants Gajewski, Hoorlein, von Knieriem, Krauch, ter Meer, Schneider, von Schnitzler, Wurster, Ambros, Lautenschlaeger, Kuehne, Buergin, Ilgner, Oster.

The Prosecution offers as its Exhibit 835 Document NI-1085, which appears on page 39 of the English and page 46 of the German. This document is a collection of letters and newspaper clippings dated August and September 1938; also on the financing of subversive activities in Rumania, and describes the action taken by the Rumanian authorities against the Farben firm Romunil for the support of the Iron Guard, a subversive organization in Rumania.

The Prosecution offers as its Exhibit 836 Document NI-10648, which appears on page 52 of the English and page 60 of the German. This document consists of excerpts from a Department of State Bulletin containing excerpts from propaganda directives by the Chief of Propaganda on the staff of the Minister for Foreign Affairs of the German Government, in May 1943.

This document is introduced for the purpose of showing that the propaganda directives issued by the Reich officials were carried out by I. G. Farben.

The Prosecution offers as its Exhibit 837, Document NI-6657, which appears on page 60 of the English document book and page 64 of the German document book. This document consists of minutes of a meeting of the Office of the Publicity and Propaganda Committee, of 30 July 1943, and 18 July 1944, in which, as a result of the various discussions with the Propaganda counsel, the Foreign Office, the Ministry of Economy, the German High Command of the Armed Forces, and other offices, plans were set forth for the re-organization of propaganda abroad.

The defendant Haefliger was among those present at the meeting of the 30th of July 1943. The propaganda they themselves suggested appears on page 62 of the English and page 67 of the German. I should like to read from the bottom of page 62:

The minutes state that the "Propaganda Ministry or the Propaganda Counsel would draw up some thesis which would be assimilated into the propaganda texts where practicable, as for example:"

"To destroy the erroneous belief in the alleged unlimited potentialities of the Americans, pertinently characterized by Professor Henke as the 'American nimbus.'" And then in parenthesis "(Contrast the German armament potential, possibly making use of figures.)"

"2) To expound convincingly Germany's export capacity and her will to accomplish her status as leader and helper in European foreign economics during the war..." and so on.

I believe the Tribunal will understand the context of these directives from the document. The Prosecution offers as its concluding exhibit on the Propaganda Sections of Section G of Count 1, its Exhibit 838, Document NI-7344, which appears on page 77 of the English book and page 88 of the German document book. This document is a circular letter by the Office of General Thomas to various offices of the German High Command, dated 15 September 1939, concerning the establishment of a special propaganda office, and containing a list of economic propaganda directives for the major countries involved in the war. This document is introduced so that the Tribunal might ascertain the extent to which I.G. carried out these propaganda objectives.

DR. GIERLICH (Counsel for Dr. Schmitz): Your Honors, the last few exhibits which have been offered by the Prosecution deal with things which happened after the outbreak of war some in 1943 and 1944. I should be extremely grateful if it could be determined what significance the Prosecution sees for any Count of the Indictment. I, personally, am unable to see any connection with any of the Counts of the Indictment.

MRS. KAUFMAN: The defendants are charged with having planned and waged aggressive war, and some of these documents are introduced for the purpose of showing that the defendants were engaged in assisting in the

in the waging of aggressive war, as well as the planning of an aggressive war.

MR. SPRECHER: I can only add to that, Your Honors, that some of the convictions in Case One before the I.M.T. had to deal solely with the waging of an aggressive war.

THE PRESIDENT: There is nothing before the Tribunal. Counsel for the Defense asks the Prosecution to point out what was considered to be the pertinency of these exhibits--and that has been done.

You may proceed to the next matter.

MRS. KAUFMAN: The remaining documents appear in Document Books 46, 47, 48 and 49 and relate primarily to those sections of Count 1-G, which charge that the defendants carried on intelligence and espionage activities indispensable to Nazi Germany's preparations for, and waging of, aggressive war.

The Prosecution offers as its Exhibit 839, Document NI-10702, which appears on page 85 of the English document book and 95 of the German document book. This document is an organization plan of the Berlin-NW-7 office of I.G. Farben, prepared by that office in September 1937. The Prosecution submits that this office was I.G. Farben's principal instrument through which information vital for the war program of the Nazi regime was procured, analyzed and routed to the various offices of the Third Reich. The Tribunal will observe that Berlin-NW-7 consisted of eight departments. The four major departments were the Central Finance Department (popularly known as ZEFI) which figured importantly in the financial manipulations engaged in by I.G. on behalf of the Nazi government; the Economic Research Department (popularly known as VOWI); the Political Economy Department (popularly known as WIPO); and the Bureau of the Commercial Committee (popularly known as the BDKA). The story of I.G. Farben's intelligence and espionage activities will be told through three of these organizations: VOWI, WIPO, and BDKA--that is, the Economic Research Department, The Political Economy Department, and the Bureau of the Commercial

Committee.

At this point may I respectfully refer the Tribunal's attention to Prosecution Exhibit 377, which is Document marked NI-6544, set forth in Document Book 17 on page 3 of the English and page 5 of the German? This is an affidavit executed by the defendant Ilgner which describes certain of the intelligence and espionage activities carried on by the Berlin-WV-7 office.

Since Ilgner discusses a variety of subjects in this affidavit, if it please the Tribunal, the Prosecution will be making constant reference to this document. May I direct the Tribunal's attention to the first five pages of this exhibit for the purpose of establishing certain preliminary facts concerning the growth and development of the various departments within Berlin-WV-7? In describing the origin and development of the various departments in Northwest-7 Ilgner states, on page 4 of the English—

DR. HOFFMANN (Counsel for defendant von der Heyde): Mr. President, I should merely like to ask whether the Tribunal has Document 839 in this form, or as we do, in the German document books, in several pages, separately? That was the original chart here.

THE PRESIDENT: We have it in neither form. Perhaps we can hold it up here and show you the form that we have.

DR. HOFFMAN: Thank you.

THE PRESIDENT: Go ahead.

MRS. KAUFMAN: May I continue?

THE PRESIDENT: Yes, go ahead.

MRS. KAUFMAN: In describing the origin and development of the various departments in NW 7, Ilgner states on page 4 of the English And Page 7 of the German, that Vowi, which the Prosecution charges became the economic intelligence arm of the Wehrmacht, was formed in 1929 after a trip to the United States made by von Moellendorff, a member of the Aufsichtsrat of I.G. at the request of Bosch, to learn methods and techniques of American statistical and political economy institutions on which to pattern Vowi.

He also states that the president of the Reich Statistical Department assisted in the establishment of Vowi by referring to it qualified personnel and that among the sources from which Vowi obtained its information was the Statistical Department of an organization known as Chemneyco which transmitted to Vowi statistics and other material pertaining to political economy published in the United States.

On page 5 of the English and Page 9 of the German, Ilgner notes that Wipo was established pursuant to a resolution of the Central Committee after the rise to power of the Nazis and that its main task from its inception was to deal with the authorities on behalf of I.G.

At Page 15 of the English and Page 26 of the German, Ilgner discusses the character of the Vowi reports, its value and use to the German authorities, its sources of information and the close cooperation with the various Nazi agencies in obtaining this information. I should like to read at Page 15 of the English and 26 of the German:

"In the same measure as qualified I.G. personnel, also the political economic exposés of I.G. (Vowi) were in

demand by all authorities, on account of their high quality. This holds true especially for the Economic Department of the Foreign Office; RITTER, who was the head at that time, had made it a practice to come frequently and gladly to Vowi - since its establishment in 1929 - to obtain information on matters pertaining to political economy because, according to his own statements he obtained information quicker from Vowi than from the Statistisches Reichsamt (Reich Statistical Office) and yet it was equally reliable. Vowi's expositions which dealt with world problems as well as with studies into questions pertaining to Germany's home economy and the economy of other countries were read with special interest by Herr RITTER."

The Prosecution offers as its Exhibit 840 Document NI-4875 which appears on Page 99 of the English Document Book. This is Book 46 and Page 117 of the German Document Book.

THE PRESIDENT: I am sorry, but I think we are confused a bit. Would you mind repeating for our benefit the Document Book?

MRS. KAUFMAN: I beg your pardon. The next Document appearing in Document Book 46 is Document 9634. This document is one of the documents referred to in Mr. DuBois' statement of this morning and will not be offered by the Prosecution.

The Prosecution will offer as its Exhibit 840 Document NI-9512, which is an affidavit executed by Helmut Noack, an employee of I.G. Farben, in which he describes the functions and activities of the Political Economy Department of Berlin NW 7.

The Prosecution offers as its Exhibit 841 Document NI-10558, which appears on Page 94 of the English Document Book and 111 of the German Document Book and is another

affidavit executed by Helmut Noack in which he makes certain statements to supplement his affidavit of 22 July, 1947.

The Prosecution offers as its Exhibit 842 Document NI-5727 which consists of minutes of a meeting of the department heads of NW 7 held on the 10th August 1937 in which Ilgner, the defendant Ilgner, points out that the Political Economy Department is the sole agency within I.G.'s responsibility for liaison with the authorities.

DR. HOFFMANN: Dr. Hoffmann for von der Heyde, Mr. President, may I point out that according to the index of the Document Book 46, as, for example, with Document NI-5727, Wipo is translated Political Economy Department. According to the German text it is Economical-Political Department because in the German text the word "Wirtschaft"-Economy —comes first and I believe the German concept is basically different in that respect because the decisive emphasis is laid on economy and not on politics.

THE PRESIDENT: Does the Prosecution concede that translation?

MRS. KAUFMAN: The Prosecution concedes that translation.

THE PRESIDENT: Very well. We will correct our indexes accordingly, Doctor.

MR. KAUFMAN:

The Prosecution offers as its exhibit 843 Document NI 4875 which appears on page 99 of the English Document Book and page 117 of the German Document Book. This is an affidavit executed by Anton Reithinger, who was the head of the Economic Research Department VOMI, on the 3rd of February 1947 in which he describes the form, function and activities of VOMI, and he states on page 99 of the English Document Book, page 117 of the German that the founder of the organization Moellendorff was interested in the establishment of a general research organization which would do research and prepare statistics on general economic and social matters for Germany and countries outside of Germany. With respect to the character of the work formed by VOMI he states that in the middle thirties VOMI prepared a comparison of economic figures in connection with the most important countries in the world involving employment figures, raw material supplies, consumption figures and general financial and budgetary data. VOMI also reported with respect to business cycles, currency and price movements, foreign trade developments, stock market forecastings, surveys of important industries and he lists several publications.

At page 101 of the English and page 119 of the German Reithinger states that VOMI received enquiries from the Economics Ministry, the Finance Office, the Speer Ministry, and the Office of the Four Year Plan. He notes also that these enquiries should have been directed to the Reich Statistical Office but the experts of the ministries used VOMI as an information office because VOMI's response was much quicker than the response of the Reich Statistical Office. Reithinger then states that after the outbreak of the war VOMI and most of its experts and statisticians worked directly for the German High Command, although, he states, that arrangements were made for VOMI to perform tasks for the German High Command of the Armed Forces after the outbreak of the war, the prosecution submits, and will establish, that arrangements for placing the VOMI in the service of the Wehrmacht were

made prior to the outbreak of the war and that even before formal arrangements were made VOWI had been preparing and submitting reports to the Wehrmacht. At the request of Krueger, who is Deputy Chief of Northwest (N.W.) 7, Reithinger prepared a list of his experts who were to work for the German High Command. This list appears at the bottom of page 101 of the English and 120 of the German and contains approximately 20 expert statisticians out of a total of 35 employed in VOWI. The prosecution respectfully refers the attention of the Tribunal to Document MI-4928 which has previously been introduced in evidence as Prosecution Exhibit 378. This affidavit executed by Krueger, the Deputy Chief of Northwest 7, dated 18 March 1947 describes the organization of Berlin Northwest 7 and the origin and activities of VOWI. Krueger in discussing Ilgner and the purposes of VOWI Krueger states, at 106 of the English, and 124 of the German, he -"referring to Ilgner, -"continually called upon the VOWI particularly to complete economic tasks which went far beyond the closer interests of I.G. International stabilization of currency, industrialization of agrarian countries, project on reeds in the Danube, Rumania. This department was intended since its foundation, which was probably in 1928, not only for I. G. purpose, but as an institute serving the whole of German and non-German economy which should concern itself with all current questions of world economy and which should stipulate an active exchange of thoughts and materials with similar institutions in Germany and abroad. This idea, which Ilgner completely made his own, originally came from von Mollendorf, and was, in my opinion, adopted by him to gain reputation and standing in public life. The publications of VOWI found general acclaim, the demand for them grew steadily, so that the number of orders for special reports, which came from the outside more than from I. G. increased."

Then Krueger discusses the use of VOWI by the Military Economy Staff of the German High Command. I should like to read at page 112 of the English and 129 of the German:

"With the outbreak of the war I was called up as an officer of the

Political Economy and Re-armament Staff and acting as a liaison officer to I. G., Berlin NW 7, was given the task of organizing the utilization of the VOMI for the purposes of the Military Economy and Rearmament Staff, a task which did not limit my civilian occupation in the I. G. The Military Economy and Re-armament Staff showed great interest in VOMI."

Then further down, in the same paragraph, Krueger states:

"VOMI had a rich store of material for this in its files on foreign countries and raw materials and in the archives on firms."

Then at the bottom of the following paragraph:

"Those I. G. employees who were occupied with the work that VOMI was doing for the Military Economy and Re-armament Staff of the OKI were paid only by I. G. The above mentioned use and utilization of VOMI by the OKI was known to the leadership of I. G. "

May I again refer the Tribunal to the affidavit by the defendant Ilgner appearing in Document Book 17, Document No. NI 6544, Prosecution Exhibit 377 and I should like to refer to the fact that Ilgner states at page 16 of the English and page 30 of the German that Krueger was drafted by the Military Economic Staff as a reserve officer and was at the same time re-assigned to Northwest 7 to supervise the proper execution of the tasks which had been assigned to VOMI by that agency, and, at page 17 of the English and page 30 of the German, Ilgner states:

"Reithinger submitted a monthly list of reports prepared for the Military Economy Staff and that Ilgner always discussed these lists before the close of the meeting of the Commercial Committee."

I shall at a later date in the proceeding discuss the membership of the Commercial Committee.

The Prosecution offers as its Exhibit 844 Document NI 10923 which appears at page 119 of the English Document Book 46 and page 135 of the German Document Book. This document is introduced for the purpose of showing the extent of the expansion of the activities of Northwest 7 through the years of Nazi Germany's preparation for and the waging of aggressive war. As the Tribunal will note at page 119 and 120 of the

English, and pages 135 and 136 of the German the total expenditures for Northwest 7 rose from 1,178,214 Reichmarks, in 1933 to 10,589,502 Reichmarks in 1944. For WOII the total expenditures rose from 161,058 Reichmarks to 1,159,161 Reichmarks in 1944 and for IPO from 68,966 Reichmarks in 1933 to 969,526 in 1944.

DR. RACHMEL(for Dr. Ilgen): Your Honors, I should really like to point out that the description in the index is not quite correct. The index states "Expenditure by Berlin NW 7." The text of the document, however, states, "Expenses of the Berlin Central Offices." There is a distinction to be made here since the Berlin Central Offices included offices of I.G. Farben which did not belong to Berlin NW 7. For example the Vermittlungsstelle W or Office A, and other offices.

MRS. YANTMAN: The Prosecution concedes the possibility that the figures appearing in this document may contain more than merely those offices within Berlin Northwest 7 and for the purposes of the Prosecution used at this point would respectfully refer the Tribunal's attention to the figures with respect to the offices of VOWI and WIPO.

The Prosecution offers as its Exhibit 845 Document NI 1128 which appears on page 122 of the English and 139 of the German Document Book. This is a confidential memorandum dated 29 December 1938, of a conference at the Liaison agency for Literature and the Press concerning the Military Economy Research Institute. This organization, the Military Economy Research Institute, was described in this document on page 122 of the English and page 139 of the German as an agency financed by and subordinate to the OKW and concerned with matters relevant to economic warfare and its purposes were described as, and I should like to read at page 124 of the English and 142 of the German text:

"The purposes of the Research Institute as follows:

- "1. Disorganization of the enemy's economy,
- "2. Maintaining of connections abroad relative to supplies of raw materials and food stuffs."

The Chairman of this meeting, and this is in 1938, states at page 123 of the English and 140 of the German:

"I.G. Farben were in possession of excellent material regarding conditions abroad."

The Prosecution offers as its Exhibit 846, Document NI 7987 which appears on page 126 of the English Document Book and 144 of the German

Document Book. This document consists of a letter dated the 28th of March 1939 from Hermann Gross who was Chief of a newly established branch of the VOWI office in Vienna to the Dean of the Jurisprudence and Political Science School of the University of Vienna, transmitting a report concerning the newly established Vienna branch office of VOWI and the report itself which discusses the purposes and tasks of the Vienna VOWI office. In describing the reasons for the selection of Vienna for the branch office Gross states, and I quote at page 129 of the English and 147 of the German:

Another factor in favor of selecting Vienna was the fact that Vienna, in view of its historical-political mission and its manifold cultural and economic ties with the nations and countries of Southeast Europe, was undoubtedly the most suitable place in Greater Germany for the economic observation of Southeast Europe, which has become an urgent necessity in view of the present well established southeast direction of Greater Germany's economic policy.

Even though the Viennese branch office of the Economic Political Department is primarily destined to serve the interests of I.G. and particularly its Austrian companies, it is by no means intended to follow a narrow-minded policy of isolation. On the contrary, its services will be in principle at the disposal of the university, as well as of Party and State agencies, with all its findings and materials, if they cannot be obtained from other sources.

This document also contains a letter from Reithinger, Chief of the Berlin Northwest FVOWI office to Gross dated the 4th of April 1939 in which he criticizes the report transmitted by Gross to the Vienna University for, and I read page 130 of the English and page 148 of the German.

If it please the Tribunal I should like to make a correction in the English translation of the document appearing at page 130. The second paragraph which commences "I rather hesitate" and to substitute

for that statement the following statement which I am reading:

"On the subject of the written transmission of the VO-III branch functions and facilities to the Dean of the Legal Faculty I must say that I feel rather dubious about the desirability of this action."

And, then I read from the translation as it appears in the document:

"It is the first time that we furnish an outside agency with a written expose on our tasks and aims, and I have particular scruples in connection with the following sentence:"

And, he quotes:

"And as in many cases the results of this work are regularly or upon request placed at the disposal of important agencies of the Party, the State, or scientific organizations, their utilization and practical application is entirely possible. Therefore, the activity of these economic statistical departments requires a general and basic, as well as a practical, significance and surpasses the sphere of private enterprise."

And, then Reithiner states with respect to that quote:

"It is my opinion that there is only a loose connection between your position as chief of the Viennese branch of the Economics Department and your activity as university lecturer, and that this is of little interest to the Dean of the Faculty. I also believe that the management here will hardly approve of sending the Dean an official written report on the tasks of our Viennese agency."

I believe this concludes the document appearing in Document Book 36.

THE PRESIDENT: Are there any announcements before we adjourn?

MR. SPRECHER: We plan, your Honors, to go forward either with Dr. Frank Fehle or Dr. Struss tomorrow morning depending upon the situation with respect to Dr. Frank Fehle. May I ask your Honors again to bring in the same document books or rather beginning with Document Book 47, 48, 49 and 17 because we shall very likely sometime tomorrow go on

with them again.

THE PRESIDENT: The Tribunal will now recess until 930 tomorrow morning.

(The Tribunal will recess until 0930 hours tomorrow morning)

OFFICIAL TRANSCRIPT OF THE AMERICAN
MILITARY TRIBUNAL NO. VI IN THE MATTER
OF THE UNITED STATES OF AMERICA AGAINST
CARL KRAUCH, ET AL, DEFENDANTS, SITTING
AT NURNBERG, GERMANY, ON 9 OCTOBER 1947,
0930-1630, JUSTICE SHAKE PRESIDING:

THE MARSHAL: The Honorable, the Judges of Military
Tribunal VI. Military Tribunal No. VI is now in session.
God save the United States of America and this Honorable
Tribunal.

There will be order in the Court.

THE PRESIDENT: Are the defendants present, Mr.
Marshal?

THE MARSHAL: May it please Your Honors all defendants
are present save the defendant Wurster who is absent due
to illness.

THE PRESIDENT: According to the clock it would indicate
we are starting late but the Tribunal would explain that
we have been having a informal conference with representatives
of counsel for Prosecution and Defense and the time has
not been wasted, but we are quite hopeful on the contrary
that it will result in expediting the trial. We mention
this for the reason that we do not want to appear to be
derelict in the performance of our duty. The Prosecution
may proceed.

DR. KELTE: Counsel for the defendant, Professor
Hoerlein:

Mr. President, would you please listen to a personal
matter concerning Professor Hoerlein? On the basis of
a medical opinion, the defendant, Professor Hoerlein,
has to undergo an immediate operation. I believe that
the certificate of the physician and also a statement of
the American Army Physician is before the Tribunal already.
The surgical operation is to be conducted by a specialist
and has to be performed in a hospital, which would
necessitate that Professor Hoerlein be released from the

sessions and from the restrictions imposed by his being under arrest for a short period of time.

In view of that fact and in agreement with the Prosecution I ask the Tribunal to excuse Professor Hoerlein from participating in the sessions during the time which is considered necessary by a medical certificate. Furthermore, also in agreement with the Prosecution, I ask that Professor Hoerlein be released from custody until such time as he is finished with his operation and he is again fit to participate in the proceedings.

MR. SPRECHER: The Prosecution has not seen any medical report on this matter but we certainly take Dr. Nolte's word concerning the whole matter, and although we are not in a position, with respect to the matter of the release from arrest, to make the final decision, we do think that the prison authorities can make the proper arrangements in that regard.

THE PRESIDENT: The medical reports referred to by counsel for the defendant Hoerlein have not come to the attention of the Tribunal. So far as I am personally advised at least I have not seen them. I may say, however, it is the policy of this Tribunal to accept statements of fact made by responsible counsel of these defendants on the face value, unless and until the contrary appears. The statement of Dr. Nolte will be accepted as a fact. The defendant Hoerlein will be excused for whatever time is necessary for him to receive proper medical attention. The Tribunal regrets it does not feel authorized to make orders at this time on the prison authorities with reference to the considerations to be shown the defendant, but counsel is authorized to take to the prison authorities a transcript of these proceedings and to call the attention of the

prison authorities to the fact that the Tribunal has no objection to whatever consideration seems proper for the proper treatment of this defendant, and suggests to the prison authorities that he exercise a good and sound discretion with respect to releasing the defendant for his surgical operation and we trust that will dispose of the matter. If any controversy arises between counsel for this defendant and the prison authorities with respect to those matters that may then be called to the attention of the Tribunal and we will undertake to dispose of it. We hardly think that will be necessary under the circumstances.

DR. BERNDT: Counsel for the defendant, Dr. Ter Meer:

Mr. President, Your Honors, the witness Dr. Struss has submitted most of the affidavits to the Prosecution as compared with all other witnesses. The Prosecution up until this time has already submitted over forty, I think 48 affidavits. These affidavits can be divided into three groups. The first group is group of affidavits which deals with personal data of the individual defendants.

In the case of these affidavits some of defense counsel will ask a few supplemental questions of Dr. Struss. The second group and these are 15 affidavits, comprising the I G production, new plant, where new types of production were started and statistical and technical statements about such production. The chemical engineers among the defendants are not today in a position to make any statements on these questions or to put any questions to Dr. Struss. The material which Dr. Struss had at his disposal has not been made available to us so far. Furthermore, let me recall to you that in so far as Dr. Struss has made statements in his affidavits about Buna, we have only received two volumes regarding Buna, regarding negotiations with Standard Oil and Du Pont, 1845.

volumes which so far have not been placed at the disposal of the Tribunal. Therefore I and other defense counsel are not in a position to cross examine the witness on these fifteen affidavits. For that reason we ask the Tribunal that these 15 affidavits which I have designated and copies of which I have already given to my associates, as well as to the Prosecution, and to which I have also added the exhibit numbers for the record, I ask that these affidavits be postponed and not be submitted at this time and that at a later date the witness Struss be cross examined on these affidavits.

An exact date when cross examination can be carried out regarding these technical matters cannot be given by me today because we so far have not the necessary documents at our disposal.

If new conferences between the Prosecution, Defense and the Tribunal will lead to expediting of the proceedings, I think we shall be able to conduct this cross examination regarding these technical questions very soon.

The third group of affidavits deal with Vermittlungsstelle W, mobilization plans, war or map games, organization of I.G., extension of I.G., relationship between I.G. and Dynamit-Nobel, Wasag and other subsidiary companies. With reference to this third group of affidavits we ask to be permitted to cross-examine the witness Dr. Struss today, and I, as the Defense counsel of Dr. ter Meer, who was the head of the TEA office, in which Dr. Struss was active as director, should like to be allowed to start with that examination.

May I emphasize that the technical engineers among the defendants, at a later date, will need Dr. Struss during their case-in-chief. By virtue of his position as director of the TEA Office, Dr. Struss was informed about the entire technical happenings within the large circle of I.G. He was the only one who was informed apart from these defendants. For that reason the technicians among the defendants will find in Dr. Struss their most important — and in many questions their only — witness.

THE PRESIDENT: Mr. Prosecutor, perhaps we can clarify the situation if we ask you first two or three simple questions. Do you have in mind the division of the affidavits of Dr. Struss into the three groups, as referred to by counsel for the Defendant?

MR. SPEECHER: Yes; I have talked it over with Dr. Berndt, and it seems to me under all the circumstances — particularly given the ingenious suggestions of Dr. Berndt — that it makes a certain amount of good sense.

THE PRESIDENT: Very well. Is the Prosecution in position to use Dr. Struss as a witness-in-chief to permit him to make such corrections as he sees fit, with reference to the exhibits in the so-called Third Group referred to by Dr. Berndt, and to submit him for cross-examination as to the affidavits in the third group, thereby reserving until some future time the interrogation of the witness by the Prosecution with reference to the affidavits in the first and second groups; and postponing the cross-examination until that time?

MR. SPRECHER: Mr. President, I think that the Defense wants to cross-examine on the first group as well as the third group, and that only the second group —

THE PRESIDENT: That, I think, is correct. I did not state accurately what we did understand from counsel for the Defense.

Is that agreeable to the Prosecution?

MR. SPRECHER: Yes.

THE PRESIDENT: Then we will have the definite understanding that the group of affidavits in the second group will not be considered for the purposes of cross-examination until a subsequent time — which, we hope, can be fixed by agreement between counsel for the Defense and the Prosecution.

MR. SPRECHER: May I just ask one question of Defense counsel, since, in my opinion, there was one matter which I had thought he would present at this time?

Dr. Berndt, you do plan during the next week to be in Frankfurt with another representative of the Defense, and we have stated that a representative of the Prosecution — if you need him — will be available there to assist during that time?

DR. BERNDT (Counsel for defendant ter Meer): Yes.

THE PRESIDENT: Very well; then it would appear that you have a mutual understanding as to the arrangement so far as the cross-examination of the witness in today's session is concerned, and the Court is entirely agreeable with that arrangement.

Anything further to be said by Mr. Prosecutor?

MR. SPRECHER: Well, I had not known that Dr. Berndt had planned that the defendant ter Meer should cross-examine his former immediate subordinate, but, upon thinking it over on rather short notice —

DR. BERNDT: Not today.....

MR. SPRECHER: Oh, I see. I think we are in agreement.

THE PRESIDENT: Very well.

THE PRESIDENT: Very well.

Are you ready to call the witness Struss to the stand?

DR. BERNDT: Yes.

MR. SPRECHER: A very few questions, and then I will turn him over to you (Dr. Berndt.)

THE PRESIDENT: The Marshal may conduct the witness Struss to the witness stand.

ERNST STRUSS, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will stand, raise his right hand, say "I", and state his name.

WITNESS: I, Dr. Ernst August Struss.

THE PRESIDENT: And now repeat after me:swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: The witness may be seated.

The Prosecution may proceed with the examination-in-chief.

DIRECT EXAMINATION

BY MR. SPRECHER:

Q Will you state your full name, for the record, once more, Dr. Struss?

A Dr. Ernst August Struss.

Q And what is your present address?

A Frankfurt on the Main, Gaertnerweg 49.

THE PRESIDENT: Mr. Prosecutor, please pardon an interruption. We can perhaps conserve time if you are in a position to indicate the books that the Tribunal will need during examination and cross-examination which is scheduled for this morning.

MR. SPRECHER: Dr. Berndt has indicated that he believes he will be able to complete the entire cross-examination on groups 1 and 3 -- or that the Defense counsel will altogether be able to do that by shortly

after the morning recess, if not by the morning recess. Therefore, I regret to say that all the books listed on the memorandum of the 23rd of September would generally be required, except where the document appears twice, of course in that event it would not be necessary to have that second document book.

THE PRESIDENT: It would appear that the President has ample books before him, but I have a memorandum here that has been handed us as to the other books that my associates may need, and I wonder if we may hand this to the Secretary and let them be sent in. I understand now they are being brought in, so you proceed and we will expect the books to be delivered to us by the time we need them.

BY MR. SPEECHER:

Q What is your present occupation, Dr. Struss?

A I am in the Control Office of I. G. Farben.

Q In the American Zone, at Frankfurt?

A Yes, in the American Zone of Frankfurt.

Q And what was your position before the German collapse in 1945?

A I was the titular director of I.G. Farbenindustrie, and the head of the TEA Bureau, the Technical Central Bureau of the I. G. Farben.

Q And for what period were you the chief of the TEA Bureau?

A Ever since the merger; that was in 1925 to 1926.

Q And from what year was the defendant ter Meer the chief of the Technical Committee -- and therefore your immediate superior in that position?

A I believe that was in the year of 1932; I think that is correct.

Q Now, during the period of the months of this last year, from time to time and sometimes for a considerable period of time, you have worked with representatives of the Office of Chief of Counsel, either from Nurnberg or from our Frankfurt branch. Is that correct?

A Yes, ever since Christmas 1946 up to the present time.

Q Now, in the period around Christmas 1946, when you first met some of our representatives, did they discuss with you the obligation for telling the truth and the penalty for perjury?

A Yes, that was put to me at various times.

Q Now, in the period around Christmas 1946, when you first met some of our representatives, did they discuss with you the obligation for telling the truth and the penalty for perjury?

A Yes, that was put to me at various times.

Q.- Now, in connection, Dr. Struss, with your examination this morning, did you spend a good deal of the time yesterday with Dr. Berndt, the defense counsel for the defendant Ter Meer?

A.- Yes.

Q.- And do you understand the plan of examination this morning whereby you will not be cross-examined on certain of the documents?

A.- Yes.

Q.- And you know which documents are to be accepted this morning under that plan?

A.- I don't know the individual documents; I don't have them before me. However, I discussed all the questions with Dr. Berndt yesterday.

MR. SPRECHER: Under the circumstances, I will have no further direct examination.

THE PRESIDENT: The witness is with the Defense for cross-examination as to the documents covered by the understanding and stipulation made at the beginning of the session.

CROSS-EXAMINATION

BY DR. BERNDT (Counsel for defendant Ter Meer):

Q.- Witness, as I hear now you do not have the affidavits before you. I think that since I am going to put simple questions to you we shall be able to manage without them. If you need the affidavits perhaps Dr. Haensel will assist me in passing them to you.

I am now going to refer to the document, Exhibit 102, German Book 5, page 2, in the English book 5, page 82. This affidavit, Dr. Struss, deals with Vermittlungstelle-W. In this affidavit you are saying, on page 2 of the original, at the top of the page, that the first mobilization plans were drafted in the year 1935.

Let me ask you whether it is not true that so-called mobilization plans were already drawn up before 1935?

A.- That is possible; these mobilization plans, as far as I know,

were, however, not drawn up before that date within the I.G.

Q.- Is it not true that before that date certain documents and material regarding production turn over, staff, etc., was asked for by the Statistical Reichs Office, Dr. Leise?

A.- Yes.

Q.- Perhaps you would be good enough to go into that question in greater detail, in a few sentences?

A.- The statistical Reichs Office approached us in order to get very detailed explanations about the chemical industry. These plans, however, were not very clear and only in the course of two or three years, as far as I remember, was it possible, with our assistance, to work out a reasonable plan. And therefore to compile a proper statistics.

Q.- In these statements which were to be submitted to the Statistical Office, production secrets were also surrendered. Do you remember that discussions were going on about that within the circle of the TEA?

A.- That did not so much concern technical secrets, but questions regarding turn-over and profits abroad and at home.

Q.- I consider that to be secret.

A.- Well, I don't believe that these matters were discussed in detail within the TEA, I think only with individual Vorstand members. I discussed this matter with Dr. ter Meer as well as with Dr. von Schnitzler, and probably also with Mr. Weber-Andreas.

Q.- Do you remember that you, yourself, left for Berlin at the time in order to speak to Dr. Leise of the Statistical Office?

A.- Yes; Director Leise at that time, however, had no clear conception as yet about the manner in which he was going to handle these matters.

Q.- Is it true that you, during your conversation with Dr. Leise,

tried to bring it about that certain statements should not be given by the I.G.?

A.- Yes, that is true.

Q.- Isn't it true that a statement was made with regard to a certain decree or law or an ordinance which compelled the I.G. to give up such information?

A.- This old law, dated back to 1923, was submitted to us which was to force us to surrender such information.

Q.- Wasn't that question put to the then head of the Vorstand, Prof. Bosch, for his decision?

A.- Yes.

Q.- Do you know that also one of the defendants, Prof. Dr. Hoerlein dealt with this matter?

A.- Yes, after Geheimrat Bosch had made the decision that such information was to be given, Prof. Hoerlein left for Berlin. He went mainly on behalf of the pharmaceutical sector.

Q.- Do you know whether these questionnaires which were sent to the I.G. by the Statistical Office were also sent to the entire German chemical industry?

A.- Yes, I know that.

Q.- I don't remember the exact year, but weren't inspections being carried out at that time, inspection of the plants by officials of the Statistical Office?

A.- Yes, all plants were inspected thoroughly, mostly two or three times.

Q.- Can you give me an explanation why, ever since about 1935, these so-called mobilization plans were no longer issued by officials of the Reichs Statistical Office but went through the hands of the Plenipotentiaries for the various Economic Groups of German Industry.

A.- I am not informed about that; at least I cannot remember.

Q.- Is it true that these mobilization plans were drawn up and carried out by all of the chemical industry of Germany?

A.- Yes.

Q.- Do you know that the plants within the German industry were divided into two groups: the so-called K & L factories, that is war essential and vital factories on the one hand, and armament factories on the other?

A.- Yes, I know that, but I only found that out much later.

Q.- Who drew up the mobilization plans in the case of plants of the armament industry?

A.- I don't know that.

Q.- Is it not true that the military authorities did that?

A.- I assume that to be so, but I have no knowledge of that.

Q.- Can you tell me who drew up the mobilization plans for the majority of the I.G. plants? And I am thinking particularly of Ludwigshafen, Hoechst, Leverkusen and Bitterfeld. Was it the armament industry that did that, or were they the so-called K & L industries?

A.- As far as I know, all important plans regarding the most important factories of I.G. were drawn up by Ungewitter.

Q.- Well, who was Ungewitter? I am not sure whether that was very clear.

A.- Ungewitter was the representative on the head of the Reich Office Chemistry and as such was appointed by the Government to work in collaboration with a representative of the Ministry of Economics, Dr. Lenz and a representative of the War Ministry, Dr. Murek. They had to draw up all those plans.

Q.- In that case, Dr. Ungewitter can be considered to be a Reich official of the Reich Office Chemistry — and not a military official?

A.- That is right.

Q.- Can you tell me from your own knowledge what the mobilization

plan for Hoechst, Mainkur, or any other plan looked like?

A.- No, I only participated in such a conference on one occasion—that was by accident — when the mobilization plan for Knapsack was drawn up. The technical representatives of Knapsack at the time submitted a mob. production plan which was then discussed by Ungewitter and the other gentlemen, and finally approved. As far as I am informed, in most cases there were two alternatives submitted.

Q.- Is it true that work on mobilization plans was principally worked out between the Reich Plenipotentiary for Chemistry, one representative of the Reich Ministry of Economics, a representative of the OKW — on the one hand — and then by the Vermittlungsstelle W and the liaison people of the plants on the other hand? And that between these two groups the entire work was carried out?

A.- That is how it was.

Q.- Was this work to be kept strictly secret?

A.- Yes.

Q.- Did you, yourself, in your capacity as director of the TEA bureau receive knowledge of these mobilization plans?

A.- No.

Q.- Did other members of the TEA bureau receive knowledge of these matters?

A.- No, these matters were worked upon by an engineer named Georg Neumann in Vermittlungsstelle-W. They did not concern the TEA bureau. But I must correct myself. I know of a so-called Farben Mobilization Plan which was only a partial mobilization plan.

Q.- Oh, yes, the Farben Mobilization Plan. Was this Farben Mobilization Plan drawn up for a certain plant?

A.- No, this was drawn up after all mobilization plans had been dealt with. This was only in the year 1937, as far as I can remember.

Q.- After 1937?

A.- I think it was 1937.

Q.- Apart from the Central Offices, did local offices too deal with the drawing up of the Mobilization plans?

A.- I don't know of that.

Q.- Who was the man who dealt with the declaration of indispensability, making officials indispensable?

A.- I think this was done by the members of the Personnel Department of I.G. I had nothing to do with that.

Q.- And who did they deal with?

A.- I don't know.

Q.- Did they not deal with the local military offices, the district commands: Frankfurt, Berlin, etc.?

A.- That is certainly true, but I never participated in these matters.

Q.- Did the preparation of air raid precautions belong to the general field of mobilization plans?

A.- Not as far as I know.

Q Were regulations regarding secrecy part of those plans?

A I don't believe so. At least I do not know of that.

Q You don't know of it. At that time in Germany there were many laws, regulations and directives which are usually called red tape. The I.G. had a lot to do with that so-called red tape? Was it the idea and thought at the time to create one office which was to deal with all of that red tape alone, and manage it in a much better way? This office was to inform all of the plants about official regulations, and was to act as an intermediary for the individual plants with the various government agencies.

A This later became the function of Vermittlungstelle W, but I do not know that this office was created for that purpose, or let me be more specific. I don't believe that when creating this office, one could in any way envisage the extent of that red tape.

Q I did not ask you about that. One could not envisage it then any more than one can envisage it today, but one thing one did know at the time, namely that red tape had already assumed large proportions, and that the individual plants, and individual directors were no longer in a position to cope with all of these matters?

A Yes.

Q Was that not one of the reasons for the creation of such a unified office?

A Yes, I could assume so, with certainty.

Q Is it not true that before the existence of Vermittlungstelle-W, an office was already in existence in Berlin which had an authoritative level, and which dealt with authority?

A Not so far as I know.

Q I was thinking of the position of the Chairman of the Vorstand or later of the President of the Aufsichtsrat and of the Bureau Krauch. Was that not in existence in Berlin already, before the Vermittlungsstelle-W?

A Yes.

So far as I know these matters were somewhat different. I always believed that this Bureau Krauch in Berlin was the Vermittlungsstelle-W, but the name was introduced somewhat later. I am certain that this office was a predecessor of the technical intermediary office.

Q I am not quite clear about that; so far I have always understood that in Berlin there existed an Office Krauch, Bureau Krauch, which dealt with a number of Reich offices. At a later date, upon the instigation of Professor Krauch, the Vermittlungsstelle-W was created. This Vermittlungsstelle-W also relieved the Bureau Krauch of quite a lot of work; isn't that true?

A I don't know that these matters took place in this way. I don't know of that because I did not have too much to do in those years with the Vermittlungsstelle-W or the Bureau Krauch. One day Dr. ter Meer approached me, or called me, and told me that under the leadership of Professor Krauch such an office had been created in Berlin. Furthermore, he said that it would be necessary for Sparta II to delegate a gentleman to go to that office. That is all that I know about the creation of the Berlin office.

Q Would you tell me approximately when the Bureau Krauch, and when the Vermittlungsstelle-W were created in Berlin?

A According to my recollection, I never saw a difference between the Bureau Krauch and the Vermittlungsstelle-W. So far as I can remember, this office in Berlin, call it as you may, Vermittlungsstelle-W or Bureau Krauch, was founded approximately in the year of 1934.

Q You said something else in your affidavit, witness; in your affidavit you were discussing the time of 1934, and then you said that the Vermittlungsstelle-W began on the 1st of October, 1935. Arising from this statement in your affidavit, I came to the conclusion that at first there was a Bureau Krauch, and then only on the first of October, 1935, the so-called Vermittlungsstelle-W was founded.

A Well, this is how it was. I have made a number of affidavits about the Vermittlungsstelle-W ever since the year of 1945. Only during

the last week, I gathered from the files that the Vermittlungsstelle-W was founded by the Control Committee in the autumn of 1935 at the date you have just mentioned. So far as I can remember, the Bureau Krauch, as it is called here, was the immediate predecessor of this Vermittlungsstelle-W, and this is how one can clarify this apparent contradiction.

Q In your affidavit you state that Professor Krauch was the head of the Vermittlungsstelle-W. Is it true that Professor Krauch, even after the fall of 1935, that is after the Vermittlungsstelle had already started its activities officially, remained the sole head of the Vermittlungsstelle-W?

A Yes. But with reference to special spheres of Sparte II and Sparte III the respective Sparte heads remained responsible.

Q Why aren't you mentioning Sparte I?

A Sparte I was Professor Krauch himself.

Q I see. Can you tell me as from what time Industrial Air Raid Precautions started in Germany?

A I cannot give you the exact date, but I am sure that it must have been very early. I should say, 1933, '34 or 1935.

Q Were these precautions private measures by the individual factories, or were they done on orders by the authorities?

A This was done upon orders by the authorities.

Q Do you know that the demands of the authorities increased from year to year, and caused considerable expenses?

A Yes.

Q Were these expenses very high?

A Yes, they went into the hundreds of millions in the end, that is, adding them up.

Q I am referring to the total. Isn't it true that TEA or another gentleman of the Vorstand did something about these matters?

A Yes, Mr. Jaehne repeatedly protested about these exaggerated demands, and reported about these matters frequently during TEA meetings,

as far as I remember.

Q From your own knowledge do you know of any of the War Games?

A Yes.

Q When did you participate in such a game?

A At Leuna and Ludwigshafen.

Q In your affidavit, you are stating that these games were an invention of Professor Krauch, and/or Dr. Ritter, so to speak. Is that true?

A Yes. These war games, so far as I knew, were instigated by Professor Krauch or his representative Dr. Ritter, but I really cannot say whether these people were actually the inventors of such an institution.

Q Well, who actually started these war games?

A I don't know that exactly. I believe that Dr. Ritter made arrangements principally with the Luftwaffe who seemed to be most interested in these matters.

Q Did representatives of the Luftwaffe or of the army or local representatives also appear during these maneuvers?

A Yes, representatives of all of the Wehrmacht branches were there, as well as a number of other local and central authorities.

Q I now have a few questions to put to you regarding Vermittlungsstelle-W. Did employees of this office participate in the meetings of the Vorstand of the I.G?

A No.

Q Did they participate in meetings of the TEA?

A No. However, it is possible that either Dr. von Bruening or Dr. Gorr, at one time submitted a brief report. I do not believe, though, that this took place in the TEA, but I rather think that it was in a meeting of Sparte II.

Q In order to clarify this matter, would you please be good enough to tell us who Dr. von Bruening and who Dr. Gorr were?

A Dr. von Bruening was the first head of the department,

Sparte II, within the Vermittlungsstelle-W from the time of its foundation up to the year of 1937, and from 1937 his successor was Dr. Gorr who was sent there by him.

Q Was there a commission in the I.G. or was there a certain circle of technicians who belonged to the sphere of tasks of the Vermittlungsstelle-W?

A No, never.

Q Did Dr. ter Meer, as the Chairman of TEA, concern himself about Vermittlungsstelle-W?

A No.

Q Did you, at one time, visit Vermittlungsstelle-W with Dr. ter Meer?

A Yes, but that was very late; that was during the time when Vermittlungsstelle-W in Berlin had already moved to Kochstrasse.

Q Can you tell me when they moved?

A So far as I can remember, this was after the outbreak of the war. I think it was in the year of 1940.

Q Do you know whether Dr. ter Meer, apart from this one visit with you, visited Vermittlungsstelle at any other time?

A I believe that he went there during the winter of 1942-1943 on one or two occasions. However, he did not go there in order to deal with matters concerning Vermittlungsstelle-W, but dealt with matters of the Economic Group Chemistry.

Q. Did the gentlemen of the Vermittlungsstelle-W desire to get into closer contact with the leading gentlemen of the Central Administration?

A. Yes they wanted that very much.

Q. Did they succeed?

A. No.

Q. Did the gentlemen of the Vermittlungsstelle-W, so far as they belonged to Sparte II, participate in the TEA meetings?

A. No, never.

Q. Never. Did they take any part in the so-called Monday meetings?

A. Yes, those were just small meetings of the TEA Bureau under my chairmanship, to which I invited Dr. Gorr personally.

Q. Did Dr. ter Meer take part in the Monday meetings?

A. No.

Q. Were complaints made in the Vermittlungsstelle-W that your activities were somewhat too subordinated?

A. Yes, Dr. Gorr always complained about that matter.

Q. If I summarize all of this, I would almost assume that the designation Vermittlungsstelle as an intermediary office was correct and represents the character of this organization properly; is that true?

A. Yes.

Q. I am now turning to the next affidavit, Exhibit 96, to be found in the German book 5. I am afraid that I do not know the number of the page. It is in the English book 5, page 27. Dr. Struss, at one time you held a lecture about the Four Year Plan. Do you still remember that?

A. Yes.

Q. This took place on the 13th of May, 1938. Do you believe that in this lecture at that time you represented and repeated the opinions as they prevailed among many circles in Germany regarding questions of the Four Year Plan?

A. I believe I did so, but I did not discuss this lecture with

anyone. However, I do believe that I correctly represented this general opinion.

Q: Didn't you demonstrate it to be the task of the Four Year Plan to deal with important matters such as foods, fats, oils, ores, metals, rubber and fuels, and to see to it that German production was to be increased, and that by new types of production, the foreign exchange balance was to be relieved, so far as import was concerned? Was that an important point in your lecture?

A. Yes, that is true. It was my opinion that other vital foods could be imported in that case, as for instance, the food situation could be thereby improved. I stressed that very clearly in this lecture.

Q. Thank you. I am now turning to the affidavit, Exhibit 667, HI-8319, German book 31, page 1, English book, page 12. Dr. Henze, have you got this affidavit?

(Affidavit handed to witness by Dr. Henze)

In this affidavit, doctor, you are dividing certain plants of the I.G. into two parts. I think under Roman Numero I you made a mistake. It says, and I quote: "In order to be prepared for war, the I. G. upon request of the 'Wehrmacht'. From that one could conclude that the I. G. was to be prepared for war. I assume though, that what you wanted to say was that "the I. G. upon request of the 'Wehrmacht authorities", and then, "in order to be prepared for war"? Do you know what I mean?

A. Yes, it is exactly as you say, and the error was probably introduced because this affidavit was taken in the English language originally, and only then translated into German.

Q. That seems to be correct, according to the wording at the end of the affidavit.

Now, Dr. Struss, would you be good enough to look at Roman General II? Under Roman Numeral II, you mention plants which were built by I. G. upon request of military authorities.

A. Yes.

Q. Under 5, on page 2, and under 6, you mention Schkopau and Huels. Schkopau with a production of 70,000 tons per year, Huels with a production of 45,000 tons per year. The first question: According to what I heard yesterday from the witness Wagner, and what was to be confirmed by a chart Ambros, Exhibit 4, the production of Schkopau was not 70,000 tons at the beginning, but only 25 or 30 thousand. The production of Huels was not 40,000 but also 25 to 30 thousand only.

Don't you think that you made an error in stating the tons per year.

A. This is not an error. On the other hand, what you say is correct. The first plan with regard to the Schkopau plant aimed at a production of 300 tons which corresponds with 24,000 tons per year. During later years the production capacity of Schkopau was increased up to 60 to 70 thousand tons.

Q. In that case we are in complete agreement; what about Huels?

A. In Huels it is exactly as you say. The first capacity of production was 25 to 30 thousand tons, and only in later years was there an increase.

Q. The installations which you mentioned under 2, according to what you say, were built upon request of military authorities?

A. The statements which I made are always made according to my best knowledge but I must state expressly that I have had no written material of any form.

Q. We do not need any written material in connection with what I am going to ask. I want to know the following. Schkopau was founded in the year 1936 and Huels in the year 1938. Is it not true that the rubber demands in Germany in these years, compared to the preceding years, were increasingly large? I need only mention the autobahn; I need only to mention automobile-traffic for which in propaganda was made all of the time, was not rubber used to an increasing degree within the civilian sector?

A. Yes.

Q. Was it not for this reason that the rubber plant at Schkopau and Huels were founded?

A. That is correct. We estimated the peacetime rubber demand for the next years at about 100,000 tons a year.

Q. Were those 100,000 tons estimated for the civilian sector only?

A. Yes, they were estimated only for peacetime consumption, for the civilian sector.

Q. For that reason may I assume that this heading, to the effect that Schkopau and Huels was only built by the I. G. solely upon the request of the military authorities, may not be quite correct. Perhaps the heads of the E. G. also took into consideration private economical necessities?

A. Yes, the demands for the building of the plant emanated from the authorities without a doubt, but the I. G. hoped that these matters, and these plants could also be utilized for private economical purposes under the pre requisite that the tariff of one mark for one kilogram of rubber would be maintained.

Q. Under 3 and 4 of the paragraph Roman Numeral II you mention the Tetrathyllead plant at Frose and Capel. Do you know that tetrathyl oil is being used in Germany in order to improve gasoline?

A. Yes.

Q. In the same way as in the United States, to an increasing extent?

A. Yes.

Q. Isn't it true that the use of tetrathyllead for motor car travels of civilian persons played also a great part for the decision to erect these two plants apart from the request of the military authorities?

A. Yes. This was certainly an important factor in this case because what the I. G. had invented instead of tetrathyllead was not very reliable and Germany wanted to go over to tetrathyllead for peace

time production.

Q. Just a few more brief questions in connection with another affidavit, but I think that the Tribunal may want to take a recess now.

THE PRESIDENT: The Tribunal will rise for its morning recess.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: You may proceed with your cross examination.

BY DR. BERGDT:

Q. Dr. Struss, I now come to Exhibit 235, German Book VIII, page 196, and English Book VIII, page 164, NI-8320. In this affidavit you state that new constructions of Farben were no longer carried out in a certain border district, but in Central Germany; and, as a reason for this measures, you state the fact that the Belgian and French guns could cover an area of about 120 or 130 kilometers in Germany along the frontier; that was in 1935.

Don't you believe that from that fact one might conclude that a defensive war were expected at that time?

A. That is the conclusion which I drew from that fact personally.

Q. Thank you. I shall now turn to Exhibit 325, NI-8313, Book XII, page 24 in the English. I don't know the page in the German.

This affidavit, witness, deals with relations between Farben and Dynamit A.G. May I ask you whether you know the motives for the conclusion of such a contract establishing a community of interests between Farben and the Dynamit A.G?

A. I'm informed about this matter by a short report which Geheimrat Bosch gave us in the "Tee", probably in 1926. He said approximately this: "An American firm has acquired a share of ten percent in the Dynamit A.G. We cannot permit this important firm to come into foreign hands. Therefore, we have taken a controlling interest in the Dynamit A.G."

Q. Then it wasn't only the exalted position of Farben in the field of synthetic nitrogen production which motivated Dynamit A.G. to conclude this community of interest agreement with Farben?

A. That was certainly one of the reasons, but doubtless not the sole reason.

Q. When this agreement was concluded, were there also reasons such

as the unfavorable development of D.A.G.'s balance sheets, losses in the artificial silk field?

A. That is true, and my superior at the time, Dr. Krenkler, told me that, but I do not know any details about it.

Q. On page 1 at the bottom of your affidavit you stated: "I.G. Farben soon succeeded in controlling Dynamit A.G." Didn't the Dynamit A.G. -- that is a stock corporation -- didn't they have a legally responsible member in the Vorstand in the person of the General Direktor, Paul Mueller?

A. Yes. The formulation that I chose here is not very fortunate. It does, it is true, correspond to the facts, but it refers only to financial influence, not to technical influence.

Q. Does it not refer not only to the technical but also to the personnel direction of Dynamit A.G.?

A. Certainly. The personnel direction of Dynamit A.G., was in the hands of Dr. Paul Mueller alone.

Q Was not Dr. Paul Mueller a very independent person, perhaps even a stubborn person, who insisted on his independence even at work?

A Yes, certainly. He was definitely a leader.

Q Then in that direction that formulation was not correct, namely, that Farben very soon succeeded in controlling the Dynamit A.G.

A Not from the technical viewpoint. That is not what I meant.

Q Tell me, did Dr. Mueller or any other gentleman of Dynamit A.G. ever work in the TEA?

A Yes.

Q Did he report there about details of powder production or about special questions of the explosives field?

A Never.

Q Did he report there about other matters?

A About the synthetic field, yes. I believe that a special agreement existed between him and Geheimrat Bosch that he should not report about his special fields, powder and explosives.

Q Dr. Mueller was an official member of TEA, wasn't he?

A Yes.

Q Was he active there, or was he only a guest at these meetings?

A It was probably this way. Although he was a member, people considered him a guest, and of course he did not take any hand in the internal affairs of the TEA.

Q On page 2 of your affidavit you say that all DAG requests for credit were discussed in the TEA.

A This request had certainly been made to Dr. Mueller by Geheimrat Bosch, and he usually complied with his requests.

Q I have another affidavit that you made, that is, that big affidavit about the whole organization of Farben. In that affidavit on page - oh, excuse me. That is 391, in the German Book XV, page 2, in the English Book XV, page 65. That is HQ-9487. In that

affidavit you gave certain facts about affiliated plants of Sparte III, including the Dynamit A.G. The following sentence is contained there:

"Money for new construction in the military field was appropriated irregularly or not at all from about the beginning of the war on."

It seems to me that there is a contradiction between your statements and what I have just read now.

A That is true. You must take into account that this time of 1926 until 1945 is rather a long time, and during all that time Dr. Mueller asked for these credits rather regularly, but then this interruption did occur when the war broke out, but I noticed that only at a late date in the war.

Q Very well. But the DAG had certain military enterprises that they had constructed before the war with Reich funds. That is correct, isn't it?

A Yes.

Q Were these ever discussed in the TEF?

A Never.

Q Oh, never. Did you know anything about these military enterprises at all?

A I only learned about them during the war and that only in part. An exact knowledge of affairs I gained only during the last months after I was able to look into the official records in the Control Office.

Q Then you knew nothing about the technical enterprises of the DAG and only learned of them during the war?

A Yes, only during the war.

Q Under II of affidavit 325 you mention intermediate products for explosives. You mention synthetic toluol and the plant in Waldenburg. May I ask you, first of all, when was Waldenburg constructed?

A The time when Waldenburg was constructed you can also find in this long affidavit. It must have been around 1940 or 1941.

Q It was in 1942.

A Yes.

Q Synthetic toluol was produced there. May I ask you who originated the process according to which this toluol was produced?

A I also dealt with that subject in this long affidavit. It was a process of the Linke-Hoffmann-Huetten which was not worked out by Farben.

Q That was not a Farben process?

A No.

Q In the last paragraph, Roman III of the affidavit, you state that according to your estimate Farben and its branches, DAG and WASAG, produced 65% of German explosives and 70% of Germany's gunpowder. Didn't you get this fact from the consideration that the Dynamit A.G. and the WASAG were counted as enterprises of Farben?

A Yes. That was the reason, and Mr. Ritchie told me to include these in this compilation in the summer of 1945.

Q Did the I.G. plants proper produce finished explosives?

A No, only di-nitro-benzol, which was produced in a comparatively small amount by Farben, could be called a finished explosive.

Q The next affidavit is Exhibit 48. It is in Document Book No. II. It is one of these large charts that I don't have to deal with any further, but I should like to ask you briefly, before the war broke out, did you know of the plants of the Verwert-Chemie?

A No, not a single plant.

Q To whom did these plants of Verwert-Chemie belong?

A I only learned that during the course of this summer, when studying the files of the Dynamit A.G. and the Verwert-Chemie that these were plants which were constructed at Reich expense and which were operated by the Dynamit A.G.

Q Were these plants ever discussed in the T-1?

A Never, not even mentioned.

Q Did you, witness, know all the plants of WASAG and WASAG Chemie before the war?

A No.

Q Did you know the plants of Spreng-Chemie?

A Not a single one. I only learned about these a few months ago from the files of the Control Office.

Q Did WASAG have its own Vorstand?

A Yes.

Q Did they have their own sales organization?

A To the best of my knowledge, yes, but please take into account that I am not competent in this field at all.

Q But perhaps you will conclude that WASAG, because it had its own Vorstand, its own sales organization, could be called an independent enterprise, which had nothing to do with the enterprise of Farben?

A Absolutely. The Farben TZA meetings never discussed WASAG.

Q Thank you very much. One more question. You drafted a number of charts about Farben plants and one very large such chart. I should like to know from you, do you agree with me that from this large table that you have drafted, which is only to be a reference document, one cannot draw any conclusions about the responsibilities of individuals who could be called the leaders in the various departments?

A At least that cannot be done in all cases, because it is technically impossible to understand a complicated machine like I.G. Farben and to depict it on a simple chart.

DR. SEREDI: Thank you very much. I have no further questions.

THE PRESIDENT: Does Counsel for the Defense desire to cross examine this witness further with respect to the matter now under inquiry?

DR. DIX: Dix for Schneider.

CROSS EXAMINATION

BY DR. DIX:

Q Mr. Struss, a few days ago we discussed this large chart on the organization of Farben which was just mentioned by my colleague, Dr. Berndt, and when doing so we made a correction which had already been given to me by the Prosecution, with a few remarks, and I should only like to ask you a few questions on it.

MR. SPRECHER: With the agreement of Dr. Dix, Your Honors, we would like to put into evidence the additional affidavit of Dr. Struss, which I think will help clarify the matter. I think you may give it a Prosecution exhibit number. It has been worked out in agreement with us, and then I think the questions will be more pertinent to a particular document that will be before Your Honors as well as Defense Counsel.

THE PRESIDENT: Can you indicate the number that the exhibit should bear?

MR. SPRECHER: The Prosecution would like to offer, as its Exhibit 847, NI-11610, copies of which were given to Your Honors this morning and copies of which were distributed to the Defense Counsel. This is a further affidavit of the witness Struss concerning the chart NI-10029, and on that chart -- or in this later affidavit Dr. Struss indicates corrections in the column "Plants" underneath "Sparte I" which particularly apply to the Defendant Schneider and the Defendant Buetaflsch.

THE PRESIDENT: Very well, the original exhibit may be filed with the Secretary, and Dr. Dix may continue his cross examination.

MR. SPRECHER: And further the Prosecution would like to offer as Prosecution Exhibit 848 the document NI-11611, which is a further affidavit of Dr. Struss concerning the document NI-9487. Copies of this document were also served upon Your Honors this morning and upon Defense Counsel.

THE PRESIDENT: I don't think we have those documents, but they can be supplied.

MR. SPRECHER: I beg your pardon, Your Honors. I thought that they had been handed up at the same time, I have not supplied the deficiency, and the Secretary has the copies, I am sorry.

THE PRESIDENT: Just a moment. Bear with us until we get the numbers on these exhibits. Now, Mr. Sprecher, again let us have the exhibit numbers, first for NI-11610.

MR. SPRECHER: Yes, Your Honor. The exhibit for that is Prosecution Exhibit 847.

THE PRESIDENT: Thank you. Now for NI-11611.

MR. SPRECHER: For that the exhibit number is 848. I might suggest, Your Honors, that those be inserted right beside the documents to which they refer. At the moment I can't give you the reference in the document book, but I could do that later, or by checking the list of exhibits you could.

THE PRESIDENT: I think we have facilities in our own offices for doing that. Thank you very much.

And, now, Dr. Dix, you may continue your cross examination.

DR. DIX: I am sorry to say that my copy has been taken away.

THE PRESIDENT: Do you have one now?

DR. DIX: Yes.

THE PRESIDENT: Very well.

BY DR. DIX:

Q The main purpose of the correction of this chart was that Dr. Bustefisch was crossed out as deputy chief of the Sparte and that the listing of plants in Sparte I was changed to some extent. That is correct, isn't it?

A Yes.

Q Specifically, left out the plant at Linz, because it doesn't belong to Farben but only has some connection with it, is that correct?

A Yes.

Q Then we changed the sequence of the plants in regard to Leuna. We first list the branch of Leuna, Niedersachswerfen, isn't that correct?

A Yes.

Q And then the two plants Moosbierbaum and Auschwitz are listed, in the proper chronological and geographical connection. They also belong to Sparte I, isn't that correct?

A Yes. Auschwitz to the extent that it belongs to Sparte I, and we classified Moosbierbaum under Leuna for the sake of simplicity, although in certain parts it might perhaps be classified as Sparte II.

Q Thank you very much. Then you had stated in regard to Dr. Bueteufisch in your other affidavit that Dr. Bueteufisch was the next person after Dr. Schneider in Sparte I and that Dr. Bueteufisch had to take over important interests of Sparte I, for instance, in the TEA meetings if Dr. Schneider was unable to attend. This applies to oil interests, mineral oil interests. Dr. Bueteufisch was very important in these questions.

A Certainly, but I am of the opinion that in case the other gentleman was prevented from attending, Dr. Bueteufisch might have represented Dr. Schneider in other questions, too. I do admit, however, that this case never actually occurred.

Q I now have some more questions which have nothing to do with this new affidavit. First of all, in reference to the examination of my predecessor, Dr. Berndt, I wanted to ask you: You had already said something about the head of Sparte II. Wasn't it true that representatives of Vermittlungsstelle-C for Sparte I and III as well did not attend TEA or Vorstand meetings?

A No, they never attended. The representative of Sparte I, representative of Sparte III, Dr. Moyer, also never participated in TEA meetings.

Q Then the business policy with regard to the Vermittlungsstelle-W was the same in Sparte II as in the other two?

A Yes.

Q And the heads of Sparten I and III — I ask about III at the same time in order to shorten the proceedings — the heads of Sparten I and III only rarely attended meetings in Vermittlungsstelle-W, isn't that also true?

A I cannot imagine that Dr. Schneider and Dr. Gajowski were ever there. I never heard anything about their presence. But one must make one exception. As long as Dr. Krauch was chief of Sparte I he also worked in Berlin.

Q Apart from the proceedings today, I have a few more questions, first of all a fundamental question which arises from the proceedings today. Isn't it true that you are not so well-informed about conditions, statistics, etc., in Sparte I as you are about conditions in Sparte II? You are informed, but not so well.

A Yes, that is true. I pointed that out and always asked when more detailed information was desired that one should turn to Mr. Goldberg for Sparte I, and information about Sparte III could be gained from Mr. Moyer, who could tell the exact details about these two Sparten.

Q I now turn to Exhibit 325. That is in the German document book XII, Page 60, in the English document book XII, page 74. That is MI-8313. I come back to this plant in Waldenburg and about the production of synthetic toluol as an intermediate for explosive. You know certainly that this plant belonged to the "Wifo" and that it was only operated by Farben.

A I said exactly that in my affidavit, that is, the long affidavit of fifty-two pages which was mentioned repeatedly just now.

A I also stated that in the chart, I don't remember exactly. I believe it is 1941 or 1942.

Q Yes. The construction of the Waldenburg plant. Do you know for what purpose that was originally done and when?

A I don't know that exactly.

Q Don't you know that that was originally built for methanol and that it was only changed during the war upon the request of the "Wifo"?

A Dr. Mueller-Conradi, who competent for these matters, did not at first report on these matters in detail in the TEA, but it is possible that I forgot this one matter and that he did report on it, for he would have had to apply for the credits. I can look it up in my files in Frankfurt.

Q We shall deal with that later, witness. I should like to ask you: You know that before the war only a small percentage of Farben's nitrogen production was used for explosives?

A Certainly.

Q What percentage was that approximately, on the average?

A You must distinguish explosives for military purposes and explosives for mines and other blasting work. I can't give you any percentage, however.

Q Then we will have to pass it to a later date. I have one more question on document Book 27, that is the German Document Book 27, Exhibit 541, German Book 27, Page 169, English Book 27, Page 154, you say the following there:

"In 1943 Farben supplied 100% of German synthetic lubricating oil." You then list the plants which produced that lubricating oil, and I want to ask you, don't you know that synthetic lubricating oil was produced according to American processes and according to a special process of the Ruhr-Chemie in some other plants?

A No, I don't know that.

Q For instance Shell, Standard Oil, and Ruhr-Chemie?

A No, I did not know that.

Q But it may be true?

A Yes, it may be true. I never heard about it -- very little was said in the TEA about these things -- but I always understood that that was the exclusive work of Farben.

Q Then you say that in the Schkopau, Louna, and the Moosbierbaum and Heydebreck plants synthetic lubricating oil was produced. Is it really true that in Heydebreck and the Moosbierbaum plants synthetic lubricating oil was produced? I thought not.

A According to the figures that I have available, a large amount of synthetic lubricating oil was produced in Schkopau, an essentially smaller amount in Louna, and the Moosbierbaum and Heydebreck plants were

in the construction stage and as far as I know had already started work but had not reached a high rate of production, but only a smaller amount of production. That is the best knowledge that I have about the state of affairs.

DR. DIX: Then I have finished.

BY DR. HENZE: Counsel for the defendant, Dr. Gattineau:

Q Dr. Struss, in the affidavit NI-10411, Exhibit 106, you stated that Farben had a 25% share in Wasag by way of the Donau-Chemie. May I ask you whether that is a mistake or a typing error?

A Without a doubt this is a typing error in the files of Mr. Dencker. Please take into account that all of these figures on participation are not known to me personally. I took them from the official files compiled by Mr. Dencker in the Control Office, and apparently a typing error has occurred here, but I have not been able to find that out with certainty so far.

Q But at any rate I understood you correctly that Donau-Chemie was not participating at all?

A I can't say whether that is a fact, but my associates expressed their assumption that in the chart of Mr. Dencker a typing error occurred.

Q Thank you very much, Dr. Struss, there are two charts behind you on the wall which are enlargements of two charts that you drafted. They are NI numbers 1033 and 1034, Exhibits 44 and 45. On the map which describes conditions in 1932, that is the chart on the right, you list for the Austria, Czechoslovakia, and Hungary only DAG Triestdorf as IG participation. In 1943, if I may ask you to look at the chart on the left, in Austria there are listed the Landeck, Brueckl, Deutsch Hüttei and Deutsch Wagram plants, and in Hungary you listed two enterprises near Budapest. May I interpolate a question here; what enterprises or what plants did you list in Hungary?

A In Hungary, there was Sorkosár, a very small plant of Sparte II for textile auxiliary production, but only for ready-to-wear textiles.

That is a very insignificant plant. Right next to it is the plant of the pharmaceutical group. I don't know what was produced there, but certainly it was only a very small, insignificant plant.

Q Do you know the name of the last-mentioned plant?

A No, I believe it was also in Soroksar, that is a suburb to the south of Budapest. You might be able to find that out by checking with the gentlemen who know about pharmaceuticals.

Q Then I come to the main question which I want to put to you: Did you know, Dr. Struss, that Farben had interests in Austria which existed already before 1932, by way of Troisdorf?

A I cannot tell you this with exactitude from memory, but I believe that you are correct, that this is an omission in the chart on the right. Please take into account that these two charts were prepared very hastily, and you can imagine that it is not very easy to compare these many plants very exactly.

Q Do you consider it possible Dr. Struss, that the plants in Austria that I mentioned before were already owned by Farben in 1932, some of them 100 percent, by way of DAG Troisdorf, DAG Bratislava?

A I consider that quite possible, and of course I can check on that in my files in Frankfurt and confirm whether it is so or not, but I cannot tell you from memory.

Q Then you do agree the chart is probably not quite correct?

A Yes.

DR. HENZE: Thank you very much.

BY DR. VON KELLER: Counsel for the defendant Von Schnitzler:

Q Witness, I am now going to discuss your affidavit NI 8319, Exhibit 667, it is in Document Book 31, on Pages 10 to 12 in the German; in the English document book pages 12 and following. That is the affidavit that Dr. Berndt has already treated, and it was determined that you drafted it in English. Under No. 4 you have used the following sentence in the translation: "In a number of cases Farben had a special interest to comply with the request of the Wehrmacht, since it wanted to prevent a competitor

from building the plants in her place." I want to clarify first of all: Do you want to give any moral judgment about the transaction of Farben, in this your sentence which I have just read.

A I don't quite understand that. In what sense?

Q Do you want to say in such a moral sense?

A In such a moral sense?

Q Yes.

A No, not at all.

Q And after the sentence just read you mention the plant at Sgiers in Poland, which was called Boruta in other documents.

A Yes, Sgiers is the town and Boruta is the name of the plant.

Q Did you know that Farben at first only rented this plant?

A If I did know that, then I certainly forgot it. You must take into account that I only looked at things from a technician's point of view, and the only consideration important for me was that a technician of Farben should be in charge of the plant.

Q Perhaps you also don't know that Farben gave payments on account for the operation of this plant?

A No, I certainly don't remember that. I only know that from the beginning we paid all expenses which arose from the operation of this plant. I don't know whether these were payments on account or what form of payment they were.

Q Did you know that the main trusteeship agency East approached Farben to change the lease into a purchase and that this agency participated in this transaction?

A No, I don't know about that.

Q But in your affidavit you say that the SS was a competitor in that field?

A Yes.

Q Do you agree with me that the SS did not possess sufficient technical knowledge to operate this plant in a proper manner and that

one might have feared that the plant might not be able to hold out for very long and that it might even have been closed down or dismantled -- did that fear exist?

A It never occurred to me that the SS might dismantle this plant, but I always believed that under no circumstances would the SS have been able to operate this plant in a proper manner.

THE PRESIDENT: Counsel, we have no purpose to press you to conclude your cross examination, but can you indicate how long it will take you to conclude?

DR. VON KELLER: I believe at the most five more minutes.

THE PRESIDENT: Then, in that connection, is there to be any further cross examination of the witness by other counsel? Under the circumstances I think we will rise for our lunch, and you may conclude after lunch.

(The Tribunal adjourned for the noon recess.)

AFTERNOON SESSION.

CROSS EXAMINATION - Continued

DR. STRUSS - Resumed.

MARSHAL: Persons in the Court room will please take their seats.
The Tribunal is again in session.

THE PRESIDENT: The cross examination may proceed.

BY DR. VON KILLER:

Q Witness, before the noon recess we stopped at your affidavit
VI 8319. We were talking about the plant Boruta. Is it true that
the I G Farben brought this plant into operation again at considerable
expense after the collapse of Poland? Furthermore, in this affidavit
you deal with the plant Muehlhausen-Dornach, did you know that in the
case of the plant Muehlhausen-Dornach it was a purely private economic
business transaction?

A Yes.

Q Do you know that at the payment of the purchase price, the
part which was taken over by the I.G was paid for with French francs
into unoccupied France?

A No, I did not know that. I have always concerned myself only
with the technical aspects of these matters.

Q And you neither know of the transfer to Switzerland of an
amount of uncontrolled foreign currency?

A No, I don't know of that.

Q How about the share of Farben in the gross capital in
Muehlhausen-Dornach, do you know anything about that?

A I certainly have known of it but at the moment I no longer
recollect it because as I said before I did not concern myself with
this financial aspect.

Q It is not relevant at this moment, but you probably know that
this plant continued to be operated by Farben?

A Yes, that was my business.

Q You also know that the plant Muehlhausen Nord, that is the other plant continued to be operated by the I G and was not laid off?

A Yes.

Q Am I correct in saying that the fact that the I G continued to operate these three plants and continued to employ the workers and employees of these three plants and thereby maintained the production units, was not only as you say a question of competition with other agencies, but also contained a social element?

MR. SPEECHER: Your Honor, I would like to object to the question as being beyond the scope of the cross examination.

THE PRESIDENT: The Tribunal is hardly in a position to rule on that objection. We cannot comprehend the details of all the exhibits under consideration at this time and will have to depend upon counsel to advise us in that respect.

MR. SPEECHER: Then may I state a further ground for my objection, Your Honor? The questions concerning the detailed operations and the method of the acquisition of the Polish plant, Boruta, and the present plants under consideration will come before the Tribunal in great detail in connection with documents and testimony underneath Count II, and all that the witness has given in these statements has to do in my opinion with the mere fact that these plants were under the technical direction of Farben which he has re-affirmed, and it seems to me that the further questions which go into questions of morals and his going into the question of whether or not there were social reasons for doing this and whether or not the French francs clearing system was used or not are matters which are quite apart from direction examination and also cross examination as to what has been submitted in the affidavit.

THE PRESIDENT: Does counsel mean additional affidavits from this witness will be offered or considered for the purpose of cross examination with respect to the social situation of these Polish plants?

MR. SPEECHER: So far as I know Dr. Struss has not given further affidavits on these two plants. May I just ask the witness if that is so?

THE WITNESS: No.

MR. SPEECHER: So the question which comes up is merely whether or not defense counsel is going beyond the scope of cross examination in going into reasons why these plants were acquired and how they happened to come under the technical direction of I G which leads us into Count II.

THE PRESIDENT: May we say to counsel for the defendant that on the statement of the Prosecution it would appear that your present inquiry is without the scope of cross examination but unless you can point out to us some pertinent basis for your examination the objection would appear to be well taken.

DR. VON KELLER: Mr. President, I think that the objection of the Prosecution is directed to my last question. I was prompted to ask the last question because of an affidavit of the witness here interested and I quote: "The I G tried to prevent that a competitor would erect these plants." With that statement the affiant is -

MR. SPEECHER: I withdraw my objection.

THE PRESIDENT: The objection would have been overruled anyway because that certainly brings into play the reason for acquiring the foreign plants. If the witness undertands the question he may answer it and if not he may ask that it be restated.

THE WITNESS:

A I have understood the question and I can easily answer it. It is correct that the I G also accomplished a social feat by maintaining these three factories in an excellent manner and did everything which was possible and necessary in order to run these three plants in a proper fashion.

DR. VON KELLER: Thank you. I have no further questions.

BY DR. NELTZ: Counsel for the defendant Hoerlein.

Q Witness, I had no opportunity to speak to you before this cross examination. Be that as it may I should like to shorten this cross examination as much as possible. I shall try to clarify with you the position of Professor Hoerlein who is known to you. Is it correct,

witness, that in Hoechst and in Elberfeld some work was done with respect to chemical problems - individual drugs and so on-?

A Not in general. No doubt Elberfeld had a very definite sphere of his own and that also applied to Hoechst in the pharmaceutical field. Naturally there was a certain amount of over-lapping which could not be avoided. I can well imagine that in view of the exemplary cooperation between Professor Hoerlein and Professor Lautenschlaeger, an agreement existed quite generally as to what was to be done in Elberfeld and what was to be done at Hoechst. As the situation stood it is quite certain there was a certain amount of over-lapping.

Q I gather from your reply that the two gentlemen, Professor Lautenschlaeger and Professor Hoerlein tried to coordinate their spheres of work, which in themselves had an independent character, is that true?

A Yes, that is correct.

Q Now, here on page 13 of your affidavit, NI 9487, document book 15, page 64, under 3, this is Exhibit 391, where you speak about the formation of these Sparte offices, you said the following: "For Sparte II, the Sparte office was included into the Tea office headed by Dr. Ernst August Struss, who since August 1931, was in Frankfurt on the Main. The task of these Sparte Office II tallied with the tasks of the TEA office. Special negotiations were carried on in that respect." Then you go on to say: "The pharmaceutical field which belonged to Sparte II was never rigidly supervised by the office of TEA."

And now the decisive sentence: "If one can speak of a central technical overall direction it was done by Prof. Hoerlein in Elberfeld." The formulation of that last sentence presents a problem to anyone trying to establish a definite fact. It presented, obviously, a problem to you, too; but this formulation is dangerous, and I therefore ask you: Can you, and will you, maintain that Prof. Hoerlein, from an organizational point of view, had the central technical direction of the pharmaceutical field?

A. Yes, I want to maintain that.

Q. Then would you please give us your reasons in detail.

A. From my formulation you can see that we are here concerned with a very difficult case. I do not believe that Prof. Hoerlein at any time appeared as the head of this field in the strict sense of the expression. But he always was the chairman of the two important pharmaceutical central commissions.

Q. What do you mean by "central commissions"?

A. These are the two scientific and technical commissions of the pharmaceutical Sparte which steered all matters within this Sparte. Prof. Hoerlein was chairman of these two commissions after Director Mann - the father of our present director Mann died. I would like to add something in this connection ...

Q. Let us remain at this point, Doctor. You are speaking about the Pharmaceutical Main Conference because you are speaking about central commissions, aren't you?

A. Yes.

Q. In the document books; and why in your affidavits we always see the words "Pharmaceutical Main Conference".

A. That's correct.

Q. What you have said up to now were merely conclusions on your part. I asked you before how Hoechst - which is Mr. Lautenschlaeger - and Elberfeld cooperated; and you rightly answered that they worked

completely independently and tried to coordinate wherever possible.
Now I must ask you: Was Prof. Hoerlein the superior of Prof. Lautenschlaeger?

A. No.

Q. Now, if he was not the superior of Prof. Lautenschlaeger - that is, not the superior of the pharmaceutical department at Hoechst -- then there can't have been a central, a technical steering, can there?

A. Oh, yes; there was through the Commission.

MR. SPRECHER: Just a minute. I have no objection. The only thing is that the answer did not come through. The witness said, in German, "doch" which is "certainly". Is that correct?

INTERPRETER: That is what I said. I said "yes."

MR. SPRECHER: It did not come through on the English, and I just wanted to be certain.

BY DR. NELTE:

Q. Would you please answer this question, witness? If Prof. Hoerlein was in charge of the technical pharmaceutical field in the entire I. G., then he would have been the superior of Prof. Lautenschlaeger. Is that true? Yes or no?

A. No, he was primus inter pares.

Q. In that case he wasn't superior?

A. No, never by decree.

Q. In that case there was no technical superior leader, was there?

A. Certainly.

Q. Doctor, well let us discuss the main conference. I assume that you believe that because Prof. Hoerlein was the head of the Pharmaceutical Main Conference he therefore had the technical steering of the pharmaceutical field?

A. Partly; but I have other reasons, too, which move me to believe that.

Q. Very well, let us remain at the Pharmaceutical Main Conference. The eight members of the Vorstand who are now in the dock concerned themselves with that problem, too, and I am putting to you the definition at which those gentlemen of the Pharmaceutical Main Conference arrived. This statement reads: "The Pharmaceutical Main Conference was a meeting of all directors of the pharmaceutical departments of Elberfeld, Hoechst, and Leverkusen. There were scientists, manufacturers, propagandists, and merchants under the chairmanship of Prof. Hoecklein. They heard reports about new products or experiments in medical laboratories. They made decisions regarding the release of such products, and they informed themselves about the state of production and turn-over, as well as about patent and licensing questions."

Would you agree with that definition of the task which the Pharmaceutical Main Conference?

A. Yes, in general. I miss, however, a sentence about the steering of production within the Pharmaceutical Sparte.

Q. One moment --

A. I cannot imagine that this aspect would not have been discussed.

Q. Now, I state: You do not know whether the Pharmaceutical Main Conference discussed the steering of production? Yes or no.

A. Yes.

Q. No.

A. Yes.

Q. Well, in other words, you do not know it?

A. No.

Q. Did you at any time attend a meeting of the Pharmaceutical Main Conference?

A. No.

Q. In other words, you cannot testify about this decisive point from your own knowledge?

A. I cannot testify from my own knowledge which I required during these meetings, but sometimes, somewhere, a decision had to be made, and such a decision was not made in the TEL.

Q. You mean the historical decision as compared to the scientific decision?

A. I mean the technical decision.

Q. If you believe that the Pharmaceutical Main Conference had authority to make such a decision, you also would have to tell me upon what your testimony is based, in view of what you said before.

A. I said that I had other reasons, too.

Q. We now stop at the Pharmaceutical Main Conference; we will soon arrive at the other point. Does that mean by that that the Pharmaceutical Main Conference is eliminated under the chairmanship of Prof. Boerlein as the technical head?

A. That is a question which I cannot answer without further advice.

Q. Do you, who are so well-informed on so many subjects, know the by-laws of the Pharmaceutical Department approved by the Working Committee on the 11th of December 1935?

A. No, I concerned myself very little with such orders and directives. My field dealt with the practical effects.

Q. Did you at any time see a decision of the Pharmaceutical Main Conference? Did you read any such decision to the effect that the Pharmaceutical Main Conference had ever made a decision of that kind, as you consider it to be essential in order to support your assumption that this body was a leading body?

A. For many years I have not read the minutes of the Pharmaceutical Main Conferences because they did not reach me, and I cannot remember ever having read them.

Q. Do you know Dr. Paulmann?

A. Very well.

Q. Do you believe that he is informed about these matters?

A. Dr. Paulmann dealt with a particular sphere of work, insecticides which was much closer to TES's competence and I don't think he can tell us anything important.

Q. Dr. Paulmann, as far as I remember, was a member of the Pharmaceutical Main Conference of I. G. Farben since 1938?

A. Yes, he was the representative of a special field.

Q. Very well, He said, "I am therefore informed about the composition and the composition and the function of this committee." This is in Document MI-9264, Prosecution Exhibit 398. Now, if this Paulmann, who was a member, says that he is informed about the composition and function of that committee, and if he says: "The Pharmaceutical Main Conference served before all the maintenance of the connection between the individual plants of the I. G. and their mutual information"—would you believe that that was correct?

A. That is certainly correct, but perhaps not complete.

Q. You were not a member, were you?

A. No.

Q. You never participated in any meeting of the Main Conference?

A. No.

Q. As Business Manager of the TEL you never read the records, as you said?

A. In former times, yes; but never during the latter years.

Q. And in spite of that you believe that you know more about the functions of the Pharmaceutical Main Conference than Mr. Paulmann?

A. No, I don't believe that.

Q. Well, then you must be able to give me specific information ..

THE PRESIDENT: If counsel will pardon an interruption, the Tribunal does not wish to appear to be impatient but it does occur to us that you have just about pumped the well dry, so far as this inquiry is concerned. We would suggest to you that it might be more helpful to us if you could deviate from the present inquiry and take out in another direction.

DR. MELTE: Very well, Mr. President. I may assume that the President is now convinced that the witness is not in a position to say anything essential to this important point concerning Hoerlein.

THE PRESIDENT: The President would not wish the record to indicate that he is convinced as to anything whatever.

DR. NELTE: I was only assuming that, Mr. President.

BY DR. NELTE:

Q: Do you know what the so-called Direction Conference was?

A: There were many Direction Conferences. I don't know which one you are referring to.

Q: I am referring to the one which worked within the framework of the Pharmaceutical Main Conference or the Pharmaceutical Sales Department. Was there a Direction Conference there?

A: Yes, I know of that.

Q: These Direction Conferences — were they the bearer of all the business management of the Pharmaceutical Sales Department or of the Pharmaceutical Main Conference?

A: So far as I have assumed up to now this Direction Conference had something to do with Mr. Mann — that is, with the Sales Department — but since this does not concern the technical field I have no detailed knowledge.

Q: Can you tell me, or do you know, whether Prof. Hoerlein attended these Direction Conferences?

A: As far as I know, he did not.

Q: You told me that you had other reasons which moved you to the conclusion that Prof. Hoerlein, from an organizational point of view, had the steering of the pharmaceutical field. We have now concluded the matter of the Main Conference and now I ask you to give me other reasons?

A: I understood we were going to leave this point altogether. If that is not the case, however, I shall answer.

Q: We are serving the truth and we search the real truth.

A: Very nice.

Q: We have already discussed the Main Conference, and I assume that the Tribunal is just as much interested as we are in ascertaining whether the assertion of the Prosecution and your assertion are correct and wants to know just as we do what specific facts you can give us for your very important assertion.

A: I have the following two reasons; At first, Prof. Hoerlein was the more senior and the more active of the two gentlemen —

Q: You are going back to the Main Conference now, aren't you?

A: No, not at all.

Q: Is that so?

A: Whereas Prof. Lautenschlaeger was the one of the two gentlemen who was more interested in scientific matters, Prof. Hoerlein dealt with the organizational aspects, even if he did not do that in a very severe form. For instance, in the TEA office he demanded from me statistical compilations about the entire pharmaceutical Sparte; which I sent to him regularly. As far as I know, Prof. Lautenschlaeger did not receive a copy of them.

Q: In what capacity did Prof. Hoerlein receive this statistical data of yours?

A: In my opinion, he received that in his capacity as head of the pharmaceutical Sparte. In my opinion!

Q: With this word "leader" or "head" you are merely making a conclusion; you are pronouncing a judgment. You cannot give any decision by the strength of this that he became that leader?

A: No.

Q: Always say "no" (or yes) because the interpreter or the record can never know what you mean when you shake your head.

You have confirmed that you never say a signature under an order of Mr. Hoerlein in his capacity as leader?

A: Counsel, if we had waited for an order in this huge organization of the I.G., the whole I.G. would have been entirely confused.

Q: Very well, but I can only say that somebody is the leader of the head if he is actually authorized to issue orders, and if he actually has issued such an order within a period of time and I ask you to mention one single such instance when he actually did issue an order.

A: Those affairs of the pharmaceutical Sparte, which I explained in the document which you mentioned, were somethings which mostly took place outside the scope of TEA. It was a special company.

Q: And that means that you know nothing about it?

A: Oh, no. I have just said that Prof. Hoerlein dealt with statistical matters: production matters, packing matters, costs and he required me to give him these data regarding the entire pharmaceutical Sparte. Consequently I was informed about these matters at least to some extent. Apart from that.....

Q: How is it that you were informed about these things? I cannot quite understand if you are providing data on packing material that you would be informed about these matters; I don't quite see the connection.

A: But certainly you must consider that all credits of the pharmaceutical Sparte went through my hands. Furthermore, all production statistics were dealt with by me of the pharmaceutical Sparte. In addition, I had a very close personal

connection with both these gentlemen and with their closest associates,

Q: Well, let us remain at the documents, at material. Don't you think that the data which you submitted to Prof. Hoerlein by request were necessary from an informational point of view in order to get a survey of the whole pharmaceutical field?

A: Certainly.

Q: Now, if he had been a chairman of the Pharmaceutical Main Conference — and he certainly was the chairman — and if the Pharmaceutical Main Conference — I beg your pardon, Mr. President, but I cannot avoid this question in this connection — had to inform itself — and that applies to the salesmen as well as the technicians, as well as the technicians, as well as the propagandists — would you deny that Prof. Hoerlein had to receive such data in his capacity as the head of the Pharmaceutical Main Conference?

A: You first said that production problems were not dealt with in the Main Conference, therefore, I do not see why these production data were needed for the Main Conference, but that is an objection I can only raise at this point. Formerly I never thought about it.

Q: You maintained that Prof. Hoerlein was the technical head of the pharmaceutical industry. Did you say that or did you not?

A: He was the head of the pharmaceutical Sparte in the I.G. I did not say "Industry."

Q: You said he was the technical head of the pharmaceutical Sparte in the I.G.?

A: Yes, that is right.

Q: You said — and I repeat — "He was the central technical head of the pharmaceutical sphere." Did you say that?

A: Certainly, but, counsel, if you will read the sentence you will also read the limitations which I made. Please read the sentence in its entirety, and then you will also find my limitations.

Q: I have read this sentence in its entirety when I began my questioning. I quote again: "If one can speak of a central technical leadership in this field then this was in Elberfeld with Prof. Hoerlein."

I am asking you now, are you going to maintain that Prof. Hoerlein had the central technical leadership of the pharmaceutical field?

A: I cannot answer this question clearly with either yes or no.

Q: Thank you, I did not want to know any more than that.

BY DR. PRIBILLA (Counsel for the defendant Lautenschlaeger):

Q: Witness, at first I had no intention of putting any questions to you, but I did not perhaps understand one sentence completely. Perhaps you did not quite finish it. You, after all, are one of the oldest executives of the I.G. and you had a survey about the individual persons in that concern. You started to explain before what the attitude and policy of the two personalities — Hoerlein and Lautenschlaeger — was.

A: Yes.

Q: I would be grateful to you if you once more made it clear what the work policy and the entire attitude of these two persons were, in their relationship to each other?

A. It is my opinion that Professor Hoerlein, and that also goes for the scientific field, has gained considerable merit, but his entire mannerism is the mannerism of an industrial leader. Professor Lautenschlaeger, however, has the mannerism of a scientist, and not so much of an industry head. I can quite easily say that here, that it was always considered to be a risky matter to take Professor Lautenschlaeger from his scientific tasks, and appoint him to the head of the Hoechst and Mainkur.

If there had been a better selection possible, if we had had at our disposal, a more qualified technician, I am quite sure that Professor Lautenschlaeger, would have been left to his scientific work entirely. But this, counsel, is merely an opinion which I am voicing, and that is all you asked for. I cannot prove that with documentary evidence.

Q. Witness, but I did understand you to say that this conception was one of the reasons which moved you to say that Professor Hoerlein was a primus inter pares in the pharmaceutical field?

A. Certainly, yes.

Q. One last question. Do you know that Professor Hoerlein was a member of the Central Vorstand, whereas Professor Lautenschlaeger was only a simple member of the Farben Vorstand?

A. Certainly. This also convinces me that what I said before about Professor Hoerlein was correct.

Q. Thank you. I have no further questions.

CROSS EXAMINATION

WITNESS STRUSS

BY DR. HEINZLER (Counsel for the defendant Wurster):

Q. Dr. Struss, first I have a brief question in regard to an utterance you made this morning. You said this

morning that you personally attended a manoeuvre at Ludwigshafen. Do you perhaps remember during what year this manoeuvre took place?

A. This must have been approximately around 1936, but it is very difficult for me to specify the exact year.

Q. At any rate I can say that it was prior to the time that the two defendants, Dr. Wurster and Dr. Ambros took over the management of the plant at Ludwigshafen?

A. I think I can say that with certainty.

Q. Thank you. Now let me put a question to you with regard to your affidavit, Exhibit 667, NI 3310, English Document Book 31, page 12; German document book 31, page 10. Under I and II of this affidavit you report about installations which were erected upon request of military authorities. Under III you go on to say: "In other cases the I.G. took the initiative in convincing the Reich authorities of the necessity of additional installations and carried on negotiations with them with regard to their erection. This applied especially to the sulphuric acid factory in Wolfen"

Arising from that question of the sulphuric acid factory at Wolfen, and what you said before, an impression could be created that we are here concerned with a factory which was built in the interests of the military. My question: do you remember that the gypsum sulphuric acid factory at Wolfen, because you obviously mean this factory-when it was first built, was intended to supply the synthetic silk factories with gypsum sulphuric acid?

A. That's true.

Q. Is it true that the second extension of this gypsum sulphuric acid factory at Wolfen was intended to supply the Methol installation I may interpose that Methol

was a cleanser-to supply that installation at Leuna and Wolfen with sulphuric acid,

A. By and large this is true, but you must not forget that the sulphuric acid production in Germany had to be increased, and that the factory at Wolfen fell within that frame.

Q. I shall come back to that later when you will be cross-examined on the affidavits which are not the subject of discussion today, where you directed attention to the development as a whole also of sulphuric acid. One more question. Is it true that the gypsum sulphuric acid plants at Wolfen was important from a private economic point of view, because the sulphuric acid plant in Wolfen proved to be cheaper because of its location and therefore sulphuric acid production was cheaper in Wolfen as it would have been elsewhere in producing it from pyrite?

A. That is true. You only have to consider that it only became profitable if a chance was given-and indeed it was given-to arrive at an agreement with the cement industry. In the case of sulphuric acid tremendous quantities of cement are obtained as by-products, and the plant at Wolfen only paid if one succeeded to sell that cement regularly.

This agreement with the cement industry was reached with the aid of the Reich, and with that the Wolfen sulphuric acid factory was alright, private from a economic point of view.

Q. Furthermore, is it true that the erection of the Wolfen plant had been decided upon after this process had already proven its worth in England and France under the license of the I. G.?

A. I do not know about the plant in France, but I do know about the plant at Birmingham, England. It was

pointed out again and again that it was indeed unreasonable that a process which was invented in Germany by the I.G.- and which was named after Dr. Kuehno-should not be applied at all in Germany.

That is what you wanted to know, is it?

Q. Now I want to ask you something about your affidavit NI-5013, Exhibit 321, book 11, English page 200; German book 11, page 230. These are your statements regarding the personal data of Dr. Wurster. A very brief question with regard to paragraph 6. There you say that Professor Wurster became manager of the Inorganic Department at Ludwigshafen in 1933. If I put to you that it was 1934, would you think that was correct?

A. Certainly, I think it is entirely possible, because I did not make these statements on the basis of my memory, but on the basis of my files, and I always saw that certain errors were contained in the files.

Q. Under paragraph 10 you say and I quote "During World War II he was fuehrer of the works Ludwigshafen-Oppau. At the same time his field was extended to the supervision of the production of sulphuric acid of all German factories".

The words. "at the same time", are not quite clear in this connection. Can you confirm that Dr. Wurster, only in the year of 1944, was entrusted with the leadership of the supervision of the production of the sulphuric acid?

A. I can confirm that. I do not think it was 1944, Oh yes, it was on the 7th of February, 1944. That is quite right. I made a small mistake.

Q. Thank you. One more brief question in connection with the following affidavit, 322, Exhibit 322, same volume, English page 202, German page 232. Under paragraph

5, referring to Dr. Wurster and I quote: "Throughout the short time Dr. Wurster was the Chairman of the Inorganic Production Commission". Is it true that the chairman of this commission was Dr. Kuehne up to the time he was released in the year of 1925, and is it true that Dr. Kuehne at a later time was represented by Dr. Buergin and Dr. Wurster?

A. The latter I no longer recollect.

Q. Finally, I have to ask you for another explanation with regard to your affidavit, 391, English book 15, page 65; 15 page 71 in the German. The Document number is HI-9487; the exhibit number is 391.

In this extensive affidavit you say, on page 92 of the German, - I am sorry I cannot give you the corresponding English page--

JUDGE MORRIS: Page 65.

BY DR. HEINZELER:

"Only when Seidel was substituted by Gaus in 1933." I may interpose, in the management of the Ludwigshafen plant. "It became obvious from the work of the excellent and efficient successors, Wurster and Ambros, that things got rather virid everywhere." This passage can be interpreted that way. The prosecution when reading this affidavit in the courtroom interpreted it as if the appearance of Dr. Wurster and Dr. Hamburg in 1933, had some close connection with the political events which took place in 1933.

My question, is it your opinion that the political events of 1933, had an influence in the appearance of Dr. Ambros and Dr. Wurster? Dr. Would it be correct to say that these two gentlemen only by virtue of their technical qualifications, came into the foreground?

A. Yes, it is true; it is only due to the high technical qualifications of these gentlemen that they contributed to the development of the plant.

Q Can you confirm that these two gentlemen, when they were still members of the Vorstand of the I.G. in 1938, were not a member of the party?

A I cannot confirm that, because we never discussed such matters. I did not exchange one word with Dr. Ambros or Dr. Wurster about party matters.

Q On the basis of your good knowledge of all persons in the I.G. can you state that the great love of these two gentlemen was not politics but technology, and that it was due to this circumstance that they reached such a high position?

A No doubt.

Q Thank you.

I have no further questions.

CROSS EXAMINATION (Continued)

DR. STRUSS

BY DR. SCHUBERT (Counsel for the Defendant Buergin:

Q Dr. Struss, at first, some brief personal questions, regarding Dr. Buergin. Reference is made to your affidavit, Exhibit 283, Document Book 11, you say "in June, 1938, Buergin became a director of the I.G." Dr. Struss, does that mean that Dr. Buergin became a member of the Vorstand at the time?

A Not at all.

Q What was Dr. Buergin from the point of view of commercial law?

A He was "prokurist" of the I.G.

Q Then you go on to say that at the same time he became the deputy manager of the inorganic factories of Central Germany. Dr. Struss can it be possible that only in the year of 1935, Dr. Buergin became manager of the inorganic plants?

A That can well be possible. As you can figure, I could not have made the statements on the basis of my memory, but only on the basis of files which were available to me.

Q Upon that affidavit there follows another one. Exhibit 284, same volume. Under paragraph 4, you list those firms where Dr. Buergin was a member of the Aufsichtsrat. Under paragraph (b) it is the firm Aluminum Werke, GMBH, Bitterfeld. Do you think that is an error on your part, Dr. Struss?

If you think it over once more, wouldn't you admit that these aluminum Werke, which was a GMBH, had no Aufsichtsrat at all?

A I cannot find that by thinking. I could only find that by looking through the files at Frankfurt.

Q But you will admit the possibility?

A There is a possibility.

Q In the chart which you compiled about the I.G. plants that is Exhibit 47 in Volume 2, you did not mention the firm Aluminum Werke GMBH separately under Property Community Central Germany. From your remarks upon Bitterfeld and Aken, you also mention aluminum in addition to magnesium. I assume that you included the Aluminum GMBH in the Bitterfeld and Aken plants. Is that true?

A That is true from a technical point of view. We always treated these plants collectively. That is these plants, and also the second and third which was located more to the north, and also the Titan factory at Leverkusen. You must take into consideration that these compilations by me were made from a technical point of view and not from a legal point of view.

Q That is what I want to clarify.

You certainly know, Dr. Struss, that the I.G. had a 59 percent share in the aluminum Werke GMBH?

A Yes, I stated that in my statements which were discussed today sufficiently.

Q The figures which you mention in this list as investments in Bitterfeld and Aken, do they comprise all of the investments for the firm Aluminum Werke GMBH, or do they only comprise 50 percent of these investments?

A We always only entered 50 per cent, but it is quite possible that a mistake has occurred. Certainly not intentionally. I considered it to be correct to only mention 50 per cent, because TEA only approved 50 per cent.

Q In Volume 15 of the prosecution's documents, there is your affidavit Exhibit 391, and you speak about the question of Aluminum-Werke, Bitterfeld, GMBH, and you say that the technical and administrative management was in the hands of the I.G. I should merely like to clarify that by a few questions. Did Aluminum-Werke GMBH, have its own business management?

A I know very little about the business management.

In all of my explanations I am always referring to the Technical management and this definitely was in the hands of the I.G. and that holds true of all three plants.

Q Dr. Struss, isn't it true that this aluminum plant GMBH was an independent firm?

A Yes.

Q That is why I asked whether it had its own business manager. Couldn't you say that?

A Certainly I think that was Dr. Schall, if I recollect the names correctly.

Q Do you perhaps know that the Metallgesellschaft sent a representative to this Aluminum Werke GMBH?

A I did not know that, but it is always possible in these things that the interested party would send their own manager.

Q I am now turning to two plants where there was participation of the I.G. They are contained in the same affidavit which we just dealt with, Exhibit 391.

With reference to the firm of Michler, GMBH and with reference to the firm Metall Guss, GMBH, you will find this on page 134 of the German book, - I am afraid I cannot give you the English page number, - you say that the plant was under the leadership of Buergin. Dr. Struss,

is it correct that Dr. Biergahn in the firm Metallgesellschaft was the Chairman of the Advisory Board (Beirat)?

A I cannot tell you anything from my memory about these matters. As I said before, it has nothing to do with the technical aspect and I could only get this information on the basis of the documents.

Q Then probably you cannot tell me anything about Westphaelische Leichtmetall GMBH as regards its management?

A Perhaps I can tell you a little more about that. There you had the relationship of 50 to 50, and there we didn't have the technical management, hence we didn't have any rolling mills. On the 50:50 basis there were two business managers, and the business manager of the other party had the primary position.

Q And who appointed him?

A I think that it was a firm that was close to Krupp. I am afraid I do not know its name, but the names of the two business managers are mentioned in the chart.

Q Dr. Struss, in order to arrive at a better understanding about the following matter, I want to hand to you a number of loose documents for your perusal. Will you take document book 30?

A 30, oh yes. It is right here.

Q. In this document book, in the German text Page 6, there is an affidavit by you, Exhibit 98. The same affidavit was also submitted in Book V.

A. I cannot find it.

Q. Page 6 of the German text.

A. Yes, Page 6. I have it.

Q. Have you found it?

A. Yes, I think so.

Q. This affidavit deals with magnesium.

A. I am afraid I didn't find it after all.

Q. You say that the I.G., in the year 1927, started the actual production of magnesium.

A. According to the production files of the Ten Bureau, this statement was made. I think it's true. It is possible, however, that to a small extent there was production prior to that time and that only at a later date the necessary reports were made to the Ten Office.

Q. Do you perhaps know, Dr. Struss, that the firm of Griesheim Elektron, which then with others amalgamated with the I.G., already during the first World War produced 5,000 tons per year of magnesium in Bitterfeld?

A. In what year?

Q. In the years 1916 and 1917.

A. No, I don't know that.

Q. You don't?

A. My statement is based upon the official production statistics of the I.G. and I did not receive any statements to that effect there.

Q. But you admit that there is a possibility that formerly there was some production?

A. Yes.

Q. Now, you are dealing with the contract Aken, Dr. Struss, and you say that the I.G. in the year 1933 received the order from the

Luftwaffe to build a magnesium installation with a yearly capacity of 12,000 tons. You are certainly acquainted with the contract between the I.G. and the Luftwaffe regarding the plant at Aken. This contract is found in extract in the same document book, Exhibit 573, but there is a photostat before you of the whole document. If you will be good enough to skip the first three pages of this photostat you will come to the right passage. Did you find it?

A. Yes.

Q. Can you see under Paragraph 1 that a production of 500 tons per month was expected? Can you confirm that?

A. I have seen this contract for the first time only a short time ago. I knew, however, that at first production was only 5,000 tons. That is approximately true. The production figure which I mentioned in my affidavit represents the final production.

Q. And that was, of course, much later?

A. Yes, and because of the fact that I used these statistical figures of the I.G. you find that this is complete. In the production statistics of the I.G. the yearly figures of Aken, Bitterfeld and Stassfurt are compiled.

Q. Now, Dr. Struss, am I right in stating that the order of the Luftwaffe didn't go up to 12,000 tons but at first only up to five or 6,000 tons?

A. That is true.

Q. Dr. Struss, on the same page of this affidavit, the last paragraph, you are saying that the total investments of magnesium that remain in Aken amounted to 46 million Marks. I can't check that figure at the moment, but according to what we discussed before about the Aluminium Werke, G.m.b.H., we are in agreement that as far as aluminum is concerned, this investment went to the Aluminium Werke, G.m.b.H., where I.G. only had a 50 per cent share?

A. Yes. I estimate that 36 million were intended for magnesium

and ten million for aluminum. Half of this figure would have to be deducted in this case. I, of course, could only consider the plant in its entirety.

Q. Yes. May I take that what you said just now entails minor corrections of the figures mentioned by you. This can be found in the next line of your affidavit.

There you say that about 40 million Marks were invested for magnesium alone. Now you say there were thirty-six. Can we correct this?

A. No we will have to leave that figure in the affidavit as it stands because the affidavit was based on the files and what I just said was based on memory.

Q. At the bottom of the same page you say that I. G. received permission from the Finance Ministry to write off 20 percent of the machinery from the firm of Aken and you say that this represents an advantage and at first sight it may appear to be an advantage. But if I now ask you to take into consideration that with a swift writing off there were in later years no possibilities of writing off left which would only lead to increased taxes, wouldn't you say that this advantage was somewhat doubtful?

A. I have never thought about these matters so far and I am not at all well-informed in taxation matters; but I can only say that Dr. Pistor, when he gave reasons for this demand, represented these 20 percent as constituting a decisive advantage, to the best of my recollection.

Q. But you, yourself, would not pronounce a judgment on this question?

A. No.

Q. If you were to turn to the next page you are speaking about experiments made by the Luftwaffe in order to find out the most suitable

site from the point of view of camouflaging the plant.

Dr. Struss, you are connecting these experiments with Aken. Is it possible that these experiments do not refer to Aken but to Stassfurt?

A. I can hardly imagine that. I can remember, and I think it was Herr von Der Bey who took part in those flights told me about the curves of the river Elbe in regard to that matter; but that was so long ago that I can hardly specify those things now which were not written down at the time.

Q. Dr. Struss, do you know perhaps that the forest which can be found around the plant of Aken within the period of one year was entirely destroyed because of the plant; and do you remember that contracts to that effect were made with the proprietors of that forest because that had been foreseen?

A. I remember this at this very moment. I had forgotten it entirely. However, I don't know what the extent of those damages was because I wasn't present.

Q. Let me now briefly turn to Stassfurt. That is the last but one paragraph on the same page of your affidavit. You say there, Dr. Struss, and I quote: "Since 1942 the production capacity was 13,000 tons per year."

Actually during the final period 12,000 tons were reached for 2 or 3 months. Do you think that is possible?

A. I should like to refer you to the official production statistics of the I. G. from which I obtained the figures referring to the individual years as we received these figures from Bitterfeld. I cannot tell you that from memory, however.

Q. This is the statistics where not the individual plants are mentioned but the individual materials.

A. Well, I divided the materials to the individual plants, but I don't know whether that affidavit was sworn to.

Q. Now, Dr. Struss, a few lines below you find the sentence, and I quote: "The Luftwaffe financed the building by granting a credit of 44

million Marks."

In that connection let me put to you your affidavit in Volume 32, Exhibit 692. On Page 4 of this affidavit you state, and I quote: "Credits of the bank of German Luftfahrt, A.G. and the Reich Minister of Aviation; Stassfurt and Aken, 44 million Reichmarks."

The same is repeated in another affidavit to be found in the same volume. This is Exhibit 695 on Page 2: "Credit of the Bank of German Aviation, A.G. and German Ministry of Aviation, Stassfurt and Aken, (exact 44 million Reichmarks)."

This figure which I just read from these two affidavits exactly corresponds with the figure which you mentioned in the affidavit which we have before us as a credit meant exclusively for Stassfurt. Can there be an error?

A. Yes. There must be an error. No doubt this is joint credit for both.

Q. Now, another question with reference to the last paragraph of this affidavit. You say there, and I quote: "In the case of Aken and in the case of Stassfurt the I.G. could charge the Luftwaffe with an amount going beyond the production and the costs in order to be able to repay the original credit."

Would you please look at the photostat again which I gave you? If you will be good enough to turn to Paragraph 5 of the contract you will find that on Page 7 of the photostat copy before you, the second paragraph from the top of the page, the compilation of the price for the deliveries to be made to the Reich, under A, the I.G. counted their overheads, material, wages and expenditures; under B, general expenses including expenses of development, research and sales; under C, taxes including turnover taxes; under D, interest of 2%, expense with regard to property which was not covered by the credit.

Did I quote correctly?

A. Yes.

Q. Isn't it true, Dr. Struss, that in particular the delivery

to the Reich, when compiling the price, was only in correspondence with the own overheads of the I.G.?

A. You are no doubt correct as far as the contract goes; but then I didn't know the contract and my information I received from Dr. Denker who was the head of the central accountancy. This matter, of course, was far removed from technical aspects with which I dealt.

Q. Dr. Struss, do you perhaps know that the repayment to the Reich was not made from the amounts of delivery to the Reich but from third parties?

A. I know nothing about such things.

THE PRESIDENT: If counsel pleases, if you have further cross examination I think we better rise at this time for our recess. Do you have more cross examination?

DR. SCHUBERT: A few more questions, Mr. President.

THE PRESIDENT: We will take our recess at this time.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

CROSS EXAMINATION--Continued

BY DR. SCHUBERT:

Q. Witness, in Book XXX there is another affidavit of yours. That is in the German edition on page 78. That is Document NI-7240, Exhibit 584. On page 78, do you have it?

A. On page 78 of the original? Yes. Yes, I have it. Page 78 of the original.

Q. Your affidavit of 20 June, 1947, about magnesium, that is in Book XXX.

A. I believe I can manage.

Q. In this affidavit, witness, you talk about the increase of production of magnesium and aluminum. Do you have that affidavit?

A. Yes.

Q. Fine. You state that in 1930 the magnesium production of I.G. Farben amounted to 600 tons, and you compare that with 1942, when the production was 25,000 tons, and from that you conclude that that amounted to an increase of 4,000 %. I can't check the figures at the moment, I should like to put to you your affidavit in Volume XXXIV, Exhibit 612, Document NI-10008. That is a survey of the production development of 18 strategic materials. There you state that in 1932 the magnesium production of Farben amounted to 1,100 tons. According to that, from 1930 to 1932 that would have meant an increase to nearly twice as much, is that correct?

A. Yes, that is correct. There are other production figures of Farben which are even higher but which were not supposed to be incorporated in the affidavit.

Q. Would you conclude from that, witness, that even before 1933 the production of magnesium increased rather quickly?

A. Magnesium had large booms and fluctuated very greatly. If I remember correctly, before the 1930 crisis magnesium production was al-

ready much higher,

Q. If such fluctuations did occur, and if, as you have just now emphasized, in 1930 and 1932 the economic crisis was felt, then you will certainly concede that the figures on which you base your calculations, either 1930 or 1932, are only random figures?

A. Yes, that is my opinion. That is the reason why I made statements about the production for all those years, but that is the way in this case it was given to me, and it is not incorrect if I deal with the period from 1930 to 1945.

Q. But, nevertheless, you would concede, Dr. Struss, that the percentage that you have calculated, namely, 4000% was determined by this accident or chance?

A. Yes, certainly.

Q. I should then like to discuss your affidavit in Book XXX. That is Document NI-4832 and Exhibit No 744. I have presented the document unbound to you, Dr. Struss.

A. Yes.

Q. Would you please look at Page 2 of the document, under No. 3? You report a visit, probable in the summer of 1935, to Alton and Bitterfeld, and you say that practically the entire production of magnesium was stored there in the form of tubes. Those were the so-called textile shells about which we will talk later. On the next page of the document, at the top, you say that at least 90% of the magnesium produced in Alton and Bitterfeld was stored and produced in such tubes. The difference between what you call practically the entire production and 90% is too insignificant for me to make an issue of it. However, if in this connection I may refer to your affidavit in Book XXX once more, which we have discussed before, that is Exhibit 98, Document NI-8317, on Page 6 of the German edition, you say on the second page that 50% or you say more than 50% consisted of tubes which were these textile shells; there is rather a large discrepancy here. May I ask you, first of all, Dr. Struss, did you check

these figures once more now or did you give these figures from your memory that you had retained from your visit in Aken and Bitterfeld at the time?

A. I made these statements only from my memory and from what I had heard in Aken and Bitterfeld about these things. You can well imagine that no documents exist about things and that it is very difficult after twelve or thirteen years to make exact statements. For that reason I expressly stated that these estimates were made according to the best of my knowledge and belief.

Q. If I understand you correctly, then, you based your estimates at the time upon the impression that you had gained at the time of your visit.

A. Certainly.

Q. You cannot say what was actually produced before or after your visit?

A. That I cannot say, but I heard at the time that this production was continued for a considerable period of time.

Q. Dr. Struss, which is correct now, 50% or 90%?

A. I cannot say. It may be that for a certain period of time 90% applies and for another period of time 50% is correct. Undoubtedly, one can easily determine from the files in the sales department how much magnesium was stored in this form.

Q. Dr. Struss, would you please be kind enough to look at the photostatic copy, once more, Article Paragraph 7 of the Aken contract, on Page 10 of the photostatic copy? From a brief glance at paragraph 1 you can see that in Article 7 provides for shipments from Aken to third persons, that is, not to the Reich or to those agencies which the Reich indicated.

A. Is that Article 7 on Page 6?

Q. No, Page 10.

A. Yes, I see that.

Q. And you also see that an increased price could be asked for such shipments and that certain payments had to be made to the Reich in order to pay back the credit, is that correct?

A. These commercial matters are so far removed from my sphere of activity that at the moment, from this badly printed document, I cannot tell you whether that is correct or not.

Q. Do you happen to know, Dr. Struss, that the credit which the Reich granted for Aken was completely paid back by 1944 through these shipments to third parties?

A. Yes, I know that.

Q. In your affidavit, Exhibit 744, in Book XXX on Pages 3 and 4 you also deal with the stabilizers. You speak of a plant being built in Wolfen near Bitterfeld. There you say that in 1935 the army planned such an enterprise. Do you know when that plant was actually first put into operation?

A. I have been able to find out these figures recently and have made a supplemental affidavit about the entire production of stabilizers in Wolfen. I don't know that by heart, but I think you may have it. Don't you have that?

Q. No, I don't have it.

A. This document was found by me only about three weeks ago. I immediately made a supplemental affidavit in order to clarify these things which are not correctly represented here. They are the exact production figures of Wolfen.

MR. SPRECHER: If Your Honors please, I don't know about this affidavit as of the moment. It may have been shown to me, but as soon as I get a copy of it — I don't know if it was given to the Defense or if it was given to the Prosecution, but in any event as soon as it comes to my attention, I shall certainly offer it.

THE WITNESS: May I say something in this regard?

DR. SCHUBERT: Please do.

THE WITNESS: I gave the affidavit to Dr. Hailbrunn, who is right here.

MR. SPRECHER: I have just determined that it was given to another representative of the Prosecution and that I hadn't been informed. I will see that you get the copy.

THE PRESIDENT: Thank you. You may go ahead.

DR. SCHUBERT: Your Honor, may I reserve the right to come back to that affidavit that I do not know yet if the witness is to be called again?

THE PRESIDENT: I think it would be only fair, and the witness will be recalled and you will have an opportunity to cross examine with respect to that affidavit.

BY DR. SCHUBERT:

Q. Only one more question in regard to this affidavit, Dr. Struss. On Page 4, if you will turn to Page 4 under Paragraph 7 at the end you say:

"During these three years, 1936 to 1938, about 5,000 tons of stabilizers were stored." Does that mean that they stored such an amount every year or only for the total period of three years?

A. Certainly not in every year?

Q. Now one last question about your affidavit NI-8319, in Book XXXI, which is Exhibit 667. You don't have it, witness? It is only a short question. It refers to the Doerberitz plant. You say, "In 1937 or 1938 Doerberitz was constructed for the production of aniline and diphenylamine which were to be used as intermediates for the Wolfen plant." Is it correct? Perhaps you remember that this plant was only erected during the war. Can that be so?

A. Yes, that may be so. Dr. Jacobi, who built this plant, told me later that as far as he knew, it was only constructed at the beginning of the war. However, the time is not to be determined by any reference to documents, and you must understand that it is difficult to fix dates exactly from memory.

DR. SCHUBERT: Thank you very much, witness. No further questions.

BY MR. GATHR: Counsel for Dr. Ambros:

Q Dr. Struss, I have only a very few and brief questions about your affidavit NI-5000, Exhibit 279, volume 11, page 6 in the English and German document books. You swore out this affidavit about the person of the defendant Ambros and under No. 14 you say:

"In the spring of 1941 Ambros was charged with planning, constructing and directing the following plants" and then you list the Buna plant at Ludwigshafen, the Auschwitz plant and then the inorganic plant Gendorf where Lost gas was produced and the inorganic plant Dyhernfurth where the newly invented gases Sarin and Tabun were produced.

In No. 16 you say:

"Probably in 1942 Ambros took over the general management of the Falkenhagen where poison gases were also produced. Exact data about this are missing." You swore to this affidavit on the 9 January 1947 and on the 20th of August 1947, that is to say, more than eight months later in an additional affidavit, NI-9487, Exhibit 391, Book 15, German, page 71, English page 65, you dealt with these questions of Falkenhagen and Gendorf and made further statements which differ partly from your statements in this affidavit, Exhibit 297. May I ask you whether you have those exhibits?

A No, I don't have them and the old number isn't even familiar to me. I do not understand that I should have classified Dyhernfurth and Gendorf as inorganic plants, such a mistake would have never occurred to me. That must have been a mistake in the translation.

Q Dr. Struss, we are making a correction already of your older affidavit, the question I should like to ask you might be answered in the following manner: Is it true if I assume that also in other points the statements about Gendorf and Dyhernfurth and Falkenhagen are more correct in the later affidavit, Exhibit 391, perhaps because after this period of eight months you have been able to base them on

any new or more accurate information?

A That is certainly true for in the summer the control office made available a certain file to me in which a short treatise about the production and complete statistics of the Gendorf plant were contained and in which the statements about Gendorf were contained from which I first learned those two names of poison gases. That is why I do not understand how I could have used those two names in January in another affidavit.

Q Thank you very much. There can be no doubt that you made this affidavit. At any rate it was submitted to us as Exhibit 279, but I should like merely to take a few statements of the new affidavit and compare them with statements from the old affidavit so that no unclear points remain. You have already said correctly you would not have called the "inorganic plant Gendorf" and you also say in your previous affidavit "Anorgana G.B.B.E. Gendorf" and "Anorgana G.B.B.E. Hydarnfurth".

THE PRESIDENT: Counsel, if the witness now says that the latter affidavit covers the subject and is correct, it occurs to us it might not be necessary to waste much time on the prior affidavit and in the interest of time you might pass it by. We understand that he now takes the position by reason of access to information which he did not have in the first instance, the subject is covered by the subsequent affidavit.

DR. GARDNER: Thank you very much. Then may I have it put in the record that numbers 14 and 16 of Exhibit 279 are obsolete and have been superseded by Exhibit 391, Book 15, page 125 and 124?

THE PRESIDENT: The Tribunal cannot make such an order in the absence of an agreement of the Prosecution. All we were observing was that such was the effect of the testimony of the author of the affidavits which would apparently suffice so far as the Tribunal is concerned. The Prosecution may speak for itself as to whether or not

it will concede that and made the record complete.

MR. SPEECHER: The occasion is made.

THE PRESIDENT: Then we have a definite understanding of the matter.

BY DR. GATHER:

Q Then I have only a short question about something that is not quite clear in both affidavits in regard to the plant Dyhernfurth. Witness, as far as you know, was Sarin ever produced in Dyhernfurth?

A I don't know the least about the production. Even in the new file to which I had access in the Control Office nothing is contained about the production of Sarin. I assume, however, that this second product, Sarin, was never actually produced on any scale.

Q Thank you very much. That confirms our opinion and you even consider it quite possible?

A Yes.

Q I do have one short question with reference to the Gendorf plant. According to your more recent information would you confirm that even in Gendorf one cannot speak of a production on any scale of Lost Gas, but that it was only an experimental plant since DL, the Direct Lost process, was a technical failure as far as quality and quantity are concerned?

A That is absolutely correct.

Q Thank you very much.

Q I have made statements about these things in an affidavit but apparently you don't have it.

MR. SPEECHER: Mr. President, in connection with the statement I just made before with respect to the concession I just thought it might be interpreted in two different ways and perhaps I should make myself clear. I am merely conceding that so far as the testimony of this witness is concerned, we concede to the striking of those two paragraphs in the mentioned affidavit. Of course, we do not concede that there may not be more facts then or material in other affidavits

which are relevant to establish the facts as they actually are.

THE PRESIDENT: We so understood it.

DR. GATHER: Yes, the latter questions were only supplementary questions and questions for reasons of clarification of Exhibit 391. I do not have to ask any more questions as to the personality of the witness since these questions have already been clarified by the Prosecution in the meantime. I have no further questions.

BY DR. MEYER: Counsel for Dr. Grjewski:

Q I have only one question of principle. This morning already when you were asked you said that the relationship between the Dynamit-Nobel, A.G. and Farben was not one of a technical domination but that the request for new means of capital investment had to be approved by the TEA, is that correct?

A Yes.

Q In regard to these requests you say in this affidavit, Exhibit 391, Document NI-4957, Book 15, page 104, that grants for new constructions in the military field were appropriated only irregularly from the beginning of the war or not at all, especially the new constructions of the Verwert Chemistry were never discussed in the TEA. According to that there is a difference between the military plants of the Verwert Chemistry Industry by the DAG people on behalf of the Reich and on behalf of the other enterprises which the DAG erected for itself, is that correct?

A Yes.

Q Didn't the requests for funds which the DAG people themselves sought go by way of TEA, even before the beginning of the war?

A As far as I know, they went by way of the TEA almost completely before the beginning of the war, but I cannot give you any definite statements. However, I leave it up to you since I have a document here of the Dynamit AG in which all credits and even those used for war purposes are contained. By a superficial comparison I have already found out that from about 110 million, and please don't pin me down to

this amount and this concession, but from this amount perhaps at the most 30 or 40 million were turned over to TEA.

* Don't you consider it possible nevertheless that the reason why these credits were not approved and were passed through TEA was because these military plans of the DAG were secret plans and because the orders had to be given personally to Dr. Paul Mueller of the OKH.

A Yes, I consider that very possible.

Q Thank you very much.

THE PRESIDENT: Is there to be any further cross examination of the witness with respect to the matter now under inquiry? Does the Prosecution have any re-direct examination of that phase of the matter? Just --

REDIRECT EXAMINATION

BY MR. SPRINGER:

Q Dr. Struss, it is true that both I.G. and DAG had special technical relations with a number of plants which were built with Reich funds. Is that correct?

A Yes. I understand that to mean that the ca thirty plants of the Verwert Chemistry were under the technical direction of Dynamit A.G.

Q And when were most of those plants built?

A Most of those plants were built after the war began.

Q Now, did you know that some such plants were being operated, from a technical point of view, by DAG? At the time, I mean.

A I did not know those plants. I have heard names of about four or five of these 30 plants only at a late date in the war.

Q My point is, did you know that DAG was running such plants, whether or not you knew the names of the plants or how many there were or who was in charge of them?

A I was able to draw such a conclusion from the fact that Dr. Muller requested chemists from us for the operation of new plants.

Q Did some problems come up about some of the intermediate products that would have to be sent to some of those plants?

A I did not exactly understand the question.

Q I say, did some technical problems come up because of the necessity of transferring raw materials or intermediate products to those plants? From I.G. plants, that is to say.

A I am not sure what you mean by this. Intermediate products for trinitrotoluol were made in four plants of Farben. Trinitrotoluol is an explosive, and the intermediate products, especially dinitrotoluol, were produced in four Farben plants, and then turned over to explosives plants for finishing.

Q And when did you know that?

A This probably happened already before the war, in small amounts, but large amounts, as far as I know, were only produced after the war with France was finished.

Q And was it known by the members of the Technical Committee that after the war began certain credits or certain finances by which DAG was conducting its business were not passing through the Technical Committee? Did you people in the Technical Committee know that?

A I was probably very sure that secret credits which the DAG had were not submitted to us, but I cannot say whether the other members of the Vorstand thought about these things.

Q Now, when Defense counsel, Dr. Schubert, was talking to you about the Aluminum Work G.m.b.H., you raised a point which comes out in a number of cases, and I wish you would help the Tribunal and the rest of us in understanding what you meant by that phrase. You said I.G. had the technical direction and from your point of view in the TFA I assume that was the important thing. Is that correct?

A As far as my opinion is concerned, as the technician, that is right. In the factory in which things were produced only Farbion had anything to say, in the Titan factory as well as in the Aluminum factory.

Q Did it make any difference to you or to the technical committee or to the Office of the Technical Committee with respect to this technical direction that there was a fifty-fifty participation with another firm?

A No, but there were other firms where we had no technical influence--fifty percent or even not one hundred percent.

MR. SPRECHER: That is all, Your Honors.

THE PRESIDENT: Any further cross examination

RECROSS EXAMINATION

BY DR. GILRICHS (Counsel for defendant Schmitz):

Q And when did you know that?

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MR. SPRECHER: That is all, Your Honors.

THE PRESIDENT: Any further cross examination

RECROSS EXAMINATION

BY DR. GILRLICHS (Counsel for defendant Schmitz):

Q Dr. Struss, just now you said that there were a number of firms where Farben did not have any technical influence despite fifty or one hundred percent participation, as you have described in the connection of the Aluminum plant. What is the meaning of this question as regards the DAG? Did Farben have any technical influence in the DAG?

A Not the least technical influence in the DAG.

Q What were the relations in the WASAG?

A Not the least influence. We did not even have any connection.

Q Thank you very much. I have one further question. In answering the question of Mr. Sprecher, you pointed out that you had been able to draw an indirect conclusion that new plants had been constructed for the DAG and that you were able to draw such a conclusion because the DAG requested technicians from Farben.

When was that noticeable?

A I have tried to find some document about this event, but I was unable to do so. It is very difficult for me to say with any amount of certainty whether this happened shortly before war broke out, or after.

Q I am not interested whether it happened in the spring of 1939 or 1940, but at any rate it did not happen before 1939?

A Certainly not.

Q And even then, when these first requests were made, a plausible reason for such requests would have been the fact that DAG was active also in other fields and increased its production, especially in the synthetic field?

A No, that is not true for explosives chemists were asked for.

Q Beginning with '39?

A Yes.....about.

Q Did you receive any reports in Farben about this fact?

A Dr. Mueller discussed these things personally with me.

Q Thank you very much.

A And he asked me to get in touch with his deputy, Dr. Kruppach, and to transfer those chemists to him that I could dispense with in Farben.

Q Thank you very much. I have no further questions.

THE PRESIDENT: Any further cross-examination?

BY DR. SCHUBERT: (Counsel for Defendant Buergin):

Q Witness, a short question about the problems Aluminum Plant, G.m.b.H., If investments were made in this plant, expansions or such, did Farben undertake that on their own or did they do that only later they had got in touch with other proprietors of the shares in the metals plants?

A Only after they consulted with the metal works.

Q Thank you very much, witness. No further questions.

THE PRESIDENT: Does that conclude the cross-examination of this aspect of the testimony of this witness? It so appears.

Now, before we leave the matter, and before the witness leaves the box, the Tribunal would like very much to have the record affirmatively disclose the exhibits with respect to which this witness has now been cross-examined so that there may be no occasion to re-travel that road. Is the Prosecution in position to dictate to the record in the presence of counsel for the Defense the list of the exhibits that have been the subject of the cross-examination of this witness today?

Take your time, Mr. Sprecher. We have a few minutes to adjust this matter, and there is no rush.

I think it will be sufficient if you merely give the exhibit numbers without the document numbers.

MR. SPEECHER: Your Honor, I am forced to rely upon the memorandum of the 23rd of September, which I do believe lists almost all the Struss affidavits except the two or three which have been added as of today, which I believe are covered also.

The cross examination then today would have covered the following documents. I arrive at that by deducting the documents on the list which has been given by Defense counsel from the list on the memorandum of the 23rd of September. Cross examination then would have covered Exhibits 44, 45, 46, 47, 98, 103, 104, 140, 235, 279, 281, 283, 284, 302, 303, 321, 322, 325, 391, 392, 532, 641, 542, 584, 665, 666, 667, 689, 744, 847, and 848.

THE PRESIDENT: Thank you very much. Now, is there any misunderstanding on the part of any of counsel with respect to those documents having been the subject of cross-examination?

DR. HEINZELER:(Counsel for Dr. Wurster): In the information that I received the subject of today's cross-examination did not contain Exhibit 689. I merely have a few short questions to this affidavit, but I should like to be given a chance to come back to that later when the other affidavits are the subject of cross-examination.

THE PRESIDENT: Has the prosecution any objection to that?

MR. SPEECHER: No, Your Honor, not at all.

THE PRESIDENT: The witness will for the time being be excused from the witness stand, with the understanding that he will, in due course, be recalled to testify in chief and to be cross-examined with respect to his affidavits in evidence, other than those which have been listed on the record now.

As to those listed on the record, the cross examination is closed.

Do you have something to say, counsel?

MR. SPEECHER: May we have a few moments with respect to the program for the early part of next week.

THE PRESIDENT: Yes, just before you make that announcement, the Tribunal would remind you that we shall not be in session tomorrow. You will recall an announcement has previously been made to that effect. We will, however, be in session on Monday.

With respect to Monday's session, the Tribunal has agreed that from the afternoon recess until adjournment, we shall be off the record, but in this room for an informal conference with counsel, concerning matters of order and procedure that may facilitate the trial of the case.

We shall have the informal conference in this room, to have the benefit of the translation service. We should like, of course to have at least a part of the reporting staff present to make any memorandums that we should like to reduce to writing, in the interest of clarity, but from the time we reconvene after the 3 o'clock.

recess, we shall not be in session as a Tribunal, but as Judges and members of the bar in this case, in an informal conference.

We mention that at this time because we are especially anxious to have as full an attendance of counsel for the prosecution and the defense as possible at that time, and we will appreciate the favor if those of you who are here present will call this matter to the attention of your associates so that if they are not present during the first three quarters of the day, if possible they will be present during the informal conference from three PM until adjournment.

Now I think, Mr. Prosecution, you may make your announcements with reference to your plans for the Monday session.

MR. SPEECHER: If I may just have one moment, your Honor.

THE PRESIDENT: Let me add to what has already been said, that counsel for the defense may consult among themselves and with their clients as to whether the defendants remain in the dock during the informal conference.

The Tribunal has no objection whatever to that; neither have we any objection to them being excused from attendance during the session. You may determine for yourselves any matters might arise which you might want to consult with them informally during the conference.

MR. SPEECHER: We will plan to go on with witnesses on Monday next, and we plan that the witness Frank-Fahle, who we had hoped and who himself had hoped to be on the stand today, can be here for the first hearing on Monday.

We will have some transportation difficulties. I cannot announce at this time all of the witnesses who will appear on Monday next, or the order in which they will appear. I will have to request that the normal reliance upon the notices which have been circulated or will be circulated suffice and at that the earliest possible time on Monday morning. I will give as much notice as we can give at that time.

9 Oct. 47-A-GJ-24-3-Stewart-(Rammeler)-
Court 6 case 6

Many of these witnesses are being brought from the British Zone; some from the French Zone, and it is very difficult to schedule them in any precise order.

THE PRESIDENT: Are there any other announcements before the Tribunal recesses until Monday.

Just let me say on behalf of my associates that we will appreciate the help of our messenger in getting these documents back to our chambers.

The Tribunal will now rise until nine-thirty o'clock next Monday morning.

(In recess until Monday, October 13, 1947, at 0930 hours.)

13 Oct. 47-M-GJ-1-1-Schwab-(Hamler)-
Court 6 case 6

Official Transcript of the American Military Tribunal
No. 6 in the matter of the United States of America
against Carl Krauch, et al, defendants, sitting at
Nuernberg, Germany, on 13 October 1947, 0930-1500,
Justice Shake presiding:

THE MARSHAL: The Honorable, the judges of Military Tribunal
VI. Military Tribunal No. VI is now in session. God save the United
States of America and this Honorable Tribunal.

There will be order in the Courtroom.

THE PRESIDENT: You may report on the presence of the defendants,
Mr. Marshal.

THE MARSHAL: May it please Your Honors, all the defendants are
present, save the defendant Warster and the defendant Hoerlein, absent
due to illness.

THE PRESIDENT: The Tribunal has a certificate reciting that the
defendant Hoerlein is in the Nuernberg hospital. He will be excused
from personal attendance today and until his recovery, and this
certificate will be filed with the Secretary General. (Document handed
to Secretary General.)

Before we start proceedings it may be appropriate to announce
that so far as we now can foresee the Tribunal will sit this entire
week, to and including Friday. However, I will remind you that we
shall recess this afternoon, the formal session, at our three o'clock
intermission and hold an informal conference with counsel with reference
to some procedural matters from that time until the regular hour of
adjournment. I am especially anxious to have present as many counsel
as can arrange to be here; as announced previously, whether the
defendants attend can be determined by their own counsel.

I think I should also advise you that according to present arran-
gements it will not be possible for us to begin session on next Monday
because this courtroom will be used by another Tribunal in the
opening of its case.

Are there any other announcements before we proceed?



Has the Defense any announcement at this time, Dr. Boettcher? Then the Prosecution may proceed with its case.

MR. SPEECHER: May it please the Tribunal, the Prosecution calls as its next witness Dr. Gustav Kuepper.

THE PRESIDENT: The Marshal will escort the witness to the stand.

DR. GUSTAV KUEPPER, a witness, took the stand and testified as follows:

THE PRESIDENT: The witness will stand, raise his right hand, say "I" and state his name.

WITNESS: I, Gustav Kuepper

THE PRESIDENT:swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: The witness may be seated.

DIRECT EXAMINATION

BY MR. SPEECHER:

Q Dr. Kuepper, will you state your full name, for the record, once more please?

A Gustav Kuepper.

Q What is your present address?

A Frankfurt-on-the-Main, Kretschmarstrasse, 16.

Q And what is your present occupation.

A I am a lawyer.

Q What was your address prior to the collapse, in 1945?

A Frankfurt-on-the-Main, too.

Q And what was your position prior to the collapse, in 1945?

I was the manager of the Dyestuffs Legal Department of the Dyestuffs Sales Combine of the I.G.

Q And for how long had you held that position?

A Since approximately the end of 1938,

Q And previous to 1938 you were also a lawyer on the staff of

that same department, but not its chief--is that correct?

A Yes.

Q As I announce these affidavits concerning which we will have questions this morning, will you check, Mr. Witness, to see that you have them in this order--and Your Honors the three affidavits in question are the following: NI-7832, which is Prosecution Exhibit 248.

A Yes.

Q That is in Document Book 9, English page 62, German Page 78. And the next document is NI-8789. That is Exhibit 249. That is in the same Document Book 9, English page 65, German page 84. And the third and last affidavit is NI-7831, which is Exhibit 396, to be found in the Document Book 15 at page 132 of the English and 152 of the German.

Dr. Kuemper, is it true that over the last few months, from time to time, you have been called upon the representatives of the Office U.S. Chief of Counsel to give certain information that was asked of you by our investigators?

A Yes.

Q And were you advised from the beginning of your obligation, to tell the truth, and of the penalty for perjury?

A Yes.

Q Now, Dr. Kuemper, will you turn to your first affidavit, which is Exhibit 248. You have talked each of these three affidavits over with both Mr. Charnatz and I during the last week, is that correct?

A Yes.

Q Taking this first affidavit, Exhibit 248, do you have any additions or corrections?

A Yes.

Q Will you please indicate the paragraph and page?

A German text page 3, the last paragraph.

Q Is that under the paragraph heading IV, the Arabic numeral 4?

A Yes.

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A Yes.

Q Will you please indicate the paragraph and page?

A German text page 3, the last paragraph.

Q Is that under the paragraph heading IV, the Arabic numeral 4?

A Yes.

Q All right, please indicate what the affidavit indicates in writing and what additions you wish to make.

A The affidavit states that the so-called "M" question was dealt with in the Farben committee. Furthermore, it states which questions were meant by that expression. According to the affidavit, the question of factories are being discussed among others where production could be continued in case of war. It deals with the assumed approaching of the enemy. Furthermore, the products and the extent of their production which was to continue during the war. Another subject of the "M" question was the induction of personnel into the Wehrmacht.

Q Now, what is your correction?

A To those points I have correct that the dates during which these matters were dealt with may under some circumstances be different. In other words, one or the other of these points could have been discussed at another period of time, for instance only during the war itself; the question of the drafting of personnel into the Wehrmacht under circumstances could have been dealt with before the war in greater detail.

Q Do you have any further addition to that affidavit?

A No.

Q Please take the next affidavit then, NI-8789, Prosecution Exhibit 249. Do you have any additions or corrections to that affidavit?

A Yes, I have some corrections to make in the case of page 2 and page 3 of the German text.

Q Will you briefly indicate the nature of your correction?

A Pages 2 and 3 of the affidavit correspond exactly to the affidavit, exhibit 248. Consequently, the supplementations I have made before hold true for this affidavit in the same way.

Q Do you have any other addition or correction?

A No.

Q Then take the last affidavit, NI-7831, which is Prosecution Exhibit 396. Do you have any additions or corrections to that affidavit, Dr. Kuemper?

A No.

MR. SPRECHER: No further questions on Direct Examination.

THE PRESIDENT: The Defense may cross-examine.

CROSS EXAMINATION

BY DR. HENZE (Counsel for Defendant Dr. Kugler):

Q Dr. Kuemper, I would like to cross-examine you about the matters you mentioned just now while making your corrections. On one occasion you said that the Dyestuffs Committee, was one which mainly had to deal with questions of sales. Is that true?

A Yes.

Q The questions of production you mentioned before are, after all, not matters which predominantly had to be dealt with in the Dyestuffs Committee?

A That is true, but in the Dyestuffs Committee these questions were dealt with from the point of view of information.

Q In your affidavit you placed this question into the background. Don't you think that the prominent position you gave to this question in your affidavit is an indication that this matter was considered to be of particular importance -- or did you just recall this question first of all when you were making this affidavit?

A The sequence of questions in the affidavit bears no relation to the importance of the question itself. The sequence is a mere accident.

Q Because of what has already been stated by other people in their affidavits, there is another essential question regarding the "M" case, which is those people who were declared indispensable; in other words, essential personnel who, in case of war, would be necessary to guarantee smooth operation of the business.

Do you agree with me that this question was extremely important and that it was discussed frequently in great detail?

A Yes.

Q Now, Dr. Kuepper, was this subject "M" also discussed after the war in these committees?

A Yes.

Q Do you agree with me then that the expression "Mobilization Questions" ... "Mob Questions" is actually erroneous? After all, one can only mobilize before and during the beginning of the war.

A That is true.

Q Then let me ask you whether you remember that under "M" questions also questions of stocks and emergency storage places for dyestuffs were dealt with?

A Yes, that's also true.

Q Is it your opinion that this constituted a very essential point -- and I am referring to storage because particularly in the dyestuffs business one had to keep large stocks?

A In the course of time -- and particularly during the war -- this question became increasingly important. As far as I remember, it was not of a very decisive nature, and that is why I did not deal with it in my affidavit, but it is correct that this question was dealt with later to an increasing extent.

Q Now, finally, let me ask you one question, Dr. Kuepper. Is it true that under this seemingly objectionable subject -- "M" question -- only such matters were dealt with which would normally be necessary to be discussed in every sales department in case of a war?

A That is correct because many things were important for sales, including production and other matters.

Q In other words, you are saying that everything was discussed which had any connection with the attitude of the sales department in the case of war?

A Yes.

Q In other words, it was a passive discussion -- not so much an active discussion?

A That is true. Everything was discussed, and that also included the production matters which would be of interest for sales in case war broke out. Beyond that there were questions which were exclusively matters for the sales department. For instance, you just mentioned the question of stocks and stores.

Q Thank you. I have no further questions.

BY DR. VON KELLER (Counsel for defendant von Schnitzler:)

Q Witness, in your affidavit, Exhibit 396, you mentioned that Dr. von Schnitzler was the chairman of the Dyestuffs Committee. You, yourself, attended the majority of meetings of the Dyestuffs Committee, and also a number of meetings of the Sales Committee. Did you at any time get an indication during these meetings that any one member of the Sales Committee or the Dyestuffs Committee had a specific and concrete reason to believe that an aggressive war was intended and that preparations were to be made for an aggressive war?

A In my opinion, nobody had even the slightest reason to believe that; at any rate, I did not.

Q Am I therefore correct in saying that the measures which you heard in the Sales Committee and that you discussed in the Dyestuffs Committee had a defensive character and were only considered in case of an eventuality?

A As far as I could gain an impression, I always thought that it was the general opinion of the participants in these meetings that all these matters were precautions for the eventuality of war, as it is customary in countries all over the world.

Q In other words, whenever you discussed personnel questions, the question of deferment, the maintenance of sales, was it then the aim that, in spite of possible demands from the Wehrmacht, business was to be continued?

A: Yes.

Q In other words, you did not have the aim to assist and supply the Wehrmacht with personnel but it was your aim to keep the necessary personnel for Farben?

A The latter is true; during all these meetings where the "M" question was discussed, it was always the aim that as much possible personnel was to be retained for Farben and be kept away from the Wehrmacht. That particularly hold true of dyestuffs because, in itself, this was not war-essential and was particularly endangered by the draft.

Q May I also extend this statement which you have just made to the civilian sector of the commercial section of I. G. Farben? In other words, the principal point of your so-called "Meb" discussions was that in spite of possible Wehrmacht demands the civilian sector was to be supplied with dyestuffs, is that true?

A Yes, that is correct.

Q Have you any reason to believe that the Dyestuffs Committee expected a peaceful settlement? I mean, have you any reason to believe that the foreign department of Farben was continued as long as military events permitted, in order to continue the business, as such? Or do you know that a limitation could be recognized before the beginning of the war which could lead you to concluding that the I.G. was intentionally trying to keep back from the world market?

A Farben tried to maintain its business as much as possible, in all countries. By that I mean sales.

DR. VON KEILER: I have no further questions to the witness.

CROSS EXAMINATION

WITNESS GUSTAV KUEPPER

BY DR. HOFFMANN, counsel for defendant von Der Heyde:

Q Witness, did everyone in Germany know what deferment meant, or was that a secret?

A Everyone in Germany knew that.

Q Was this institution — this deferment institution customary in every factory, or only in Farben?

A That was quite general.

Q Was this deferment carried out according to material reasons or were political reasons decisive for the decision of who was to be, deferred or not?

A Within Farben, there were only material points of view which decided; so far as I know, no political reasons played any important part whatsoever.

DR. HOFFMANN: Thank you very much.

THE PRESIDENT: Is there any further cross-examination of the witness?

Is there any re-direct by the prosecution?

REDIRECT EXAMINATION

WITNESS KUEPPER

BY MR. SPRECHER:

I have just one or two questions.

Q Did the question of deferment, so far as you know, play as important a role with the commercial people as it did with the production people, and before you answer the question, I will state my objective. On the whole, weren't the commercial people somewhat older than the production people? I mean the rank and file in the organization.

A Yes, that's true.

Q Did the demands of the Wehrmacht, so far as the commercial people were concerned, amount to very much?

A Yes, they increased at the beginning of the war, and to a greater extent afterward.

Q Well these examples you have given in one of your affidavits, where "M" questions were discussed, and presumably some of those questions had to do with the UK question, (the deferment question,) — all of those had to do with the time before the war. Now is it your testimony that there was not an increasing demand for I. O. sales people before the war broke out, or is it your testimony that the increasing demands merely came after the war broke out?

A The question of deferment, — and I have already corrected that, — was a matter which was already dealt with before the war. Drafting before the war only extended to military exercises and when reserves were called. Proper cases of deferment actually did not exist to any great extent before the war, but the basic question, namely to what extent specialists were going to be released, — to be deferred during the war, — that is, in the case of an eventuality of the war, — would already have to be decided before the war actually starts.

Q And the simple question therefore is, Dr. Kuepper, was there an increasing attention with the matter, already before the war, or were these discussions of "M" questions entirely about other things before the war, or principally about other things before the war?

A I believe that all of the points with which I have dealt in this affidavit, were discussed, but at any rate, the question of deferment was also discussed.

As I said before, I don't quite remember now whether each one of these points, in the so-called M-plans, were discussed before the war or after the war. I don't remember that.

THE PRESIDENT: Is there any further cross-examination?

Re RE-CROSS EXAMINATION (continued)

WITNESS KUEPPER

BY DR. HOFFMANN, counsel for von Der Heyde:

Q Witness, the question the prosecution put to you moves me to put another question to you now. Would it, technically, have been at all possible to start discussing this question of deferment after the war had already started?

A I don't know that. That would mean that I would have to render judgment about military, technical questions, which surpasses my ability.

DR. HOFFMANN: No further questions.

THE PRESIDENT: Is it desired by the defense to cross-examine this witness any further? It not appearing that any further cross-examination is desired, the witness is excused, and the Marshal may escort him from the box.

The prosecution may call its next witness.

MR. SPRECHER: The prosecution calls as its next witness, Guenther Frank-Fahle.

THE PRESIDENT: The witness will stand, raise his right hand, say, "I" and state his name.

THE WITNESS: I, Guenther Frank-Fahle.

THE PRESIDENT: The witness will now repeat after me, "swear by God, the Almighty, and the Omniscient, that I will speak the pure truth and will withhold and add nothing.

THE WITNESS: Swear by God, the Almighty, and the Omniscient that I will speak the pure truth and will withhold and add nothing.

THE PRESIDENT: The witness may be seated. The witness is with the prosecution.

MR. SPRECHER: Your Honors, may I first just mention the affidavit. I have seen that the witness does have copies, in order that if there are any omissions, we can get them before we get too deeply into the examination.

The first is Exhibit 250, which is NI 7621. That is to be found in Document Book 9, English page 68, German page 88.

The next is Exhibit 360, Document Book 13, English 82, German 142.

The next is Exhibit 510, NI 9457, Document Book 25, English 1,
German 166.

The next is Exhibit 511, NI 1294. That is to be found in English
Book 25, at page 3, and in the German Document Book 22, at page 72.

The next is Exhibit 759, which is to be found in Document Book 39,
English page 59, German page 114.

And the last is a short affidavit on Foreign Exchange, which is
NI 10546. I am sorry that the exhibit number was not indicated, on my
copy. Do you have the exhibit number there, witness, on that last.

THE WITNESS: 767.

MR. SPRECHER: 767.

THE PRESIDENT: Do you have the book and page, where we will find it?

MR. SPRECHER: I am afraid someone in the preliminary dealings with
the witness, got my copy. Do you have my copy by any chance, with the
page numbers on it.

THE WITNESS: No.

JUDGE HERBERT: That is Book 41, page 81 according to the notation
I have.

DIRECT EXAMINATION

GUENTHER FRANK-PAHL

BY MR. SPRECHER:

Q Now, witness, what is your address at the present time?

A Oberursel-Taunus, Hoemarkstrasse, 123.

Q What is your present occupation?

A I am a farmer.

Q What was your address prior to the collapse of 1945?

A Berlin, Nikolassee.

Q That was your address; what was your occupation prior to 1945?

A Director of the I. G. Farben Industry.

Q And you were secretary of the Commercial Committee from August,
1937, until the collapse, with some few exceptions when you were in the

Army. Is that correct?

A That is correct.

Q You will have to speak out; otherwise it does not go over the system. And what other jobs did you have in Berlin NW 7, quite apart from your job as Secretary of the Commercial Committee?

A I was in the Central Department of the Finance Administration, and I was also in the Central Department of I. G. Berlin NW 7.

Q Witness, you visited America or worked in America for some time in the early 1930 and you understand the English language quite well, do you not?

A Yes.

Q Now in the past 6 or 8 months, from time to time, you have been called upon by investigators or attorneys from the office of the United States Chief of Counsel, in connection with investigations made by that office?

A Yes.

Q And were you from the beginning informed concerning the obligation to give the full truth, and the penalty for perjury?

A Yes.

Q Now you have before you those affidavits of yours which now come into question. May I take the first one, Exhibit 260, which is NI 7621. That is a compilation which you worked out with Mr. George Martin, a representative of OGCOC, which contains extracts from the minutes of the available meetings of the Commercial Committee; is that correct?

A Yes.

Q. Do you have anything to add or to say to clarify that affidavit?

A. I only want to say that in the English translation, in the case of two passages, the expression, "RWM", was translated Reich War Ministry.

Q. Thanks for calling that to our attention.

Your Honors, may I explain that. The letters "RWM" at different times before and after, I think, 1938, could be translated either "Reich Economic Ministry", or "Reich War Ministry", and the translator made the mistake in what I would say was in somewhat of a possible prejudicial manner here to the defense, and I would like to point that out.

Under the Item 31, where there is an excerpt from the meeting of the 15th of July, 1938, in the last two lines you find the words, "Reich War Ministry". That should be "Reich Economic Ministry", and similarly under the item 3 M, which refers to the minutes of the meeting of the Commercial Committee of 16 June, 1939, there likewise appear the words, "Reich War Ministry", and instead there should appear the words, "Reich Economic Ministry".

Is there anything else, Mr. Witness?

A. No.

Q. Now the next affidavit is Exhibit 360, document WI 5189. Do you have any additions or corrections to that affidavit? I think you indicated one under paragraph 6. I beg your pardon, I think you had one first at the beginning of paragraph 4?

A. Yes. Under paragraph 4, I stated that I had learned that there had been a commercial committee after 1933, and that I had also heard that it was no longer active after 1933.

At that time I was not so well acquainted with the inter-organizational matters of Farben. It may well be that the so-called old commercial committee continued to function even after 1933.

Q. The next question, as I understand you, is over about 4 or 5 pages toward the end of paragraph 6, just after you listed the members

of the Commercial Committee?

A. Yes, I mentioned here that Mr. Paul Mueller became a member of the Commercial Committee, not in his capacity as a member of the Aufsichtsrat of Farben but in his capacity as Chairman of the Vorstand of the Dynamit-Nobel.

I remember that the main reason why leading business men of Farben insisted upon the presence of Paul Mueller, was that first of all there were some shares of Farben in Southeastern Europe, in the possession of Dynamit-Nobel, and another reason was that they desired a closer contact with Dynamit-Nobel in the field of synthetics.

Q. Now the next correction is with respect to Item 13, underneath paragraph 7, if I understand you correctly. What is your correction there?

A. Under figure "13", "General Questions Regularly or Frequently Discussed", I mentioned the position and activity in the occupied countries of the I.G. Farben. This is under the heading under 13, and I quote, "Including New Order (Neue Ordnung)."

I believe that at least this last point, "Including New Order questions" must fall under the second heading, namely, "Individual questions" which were less frequently discussed, especially since the question of the new order only came up after the collapse of France. It was then that this question was discussed extremely zealously by German authorities, probably in the expectation of a quick victory, but then it was soon dropped.

Q. Your next correction is at the end of paragraph 14; is that right?

A. Yes, that is true. I mention here that the office of the Commercial Committee, would probably have remained only a very small organization had it not been for the assistance of Dr. Ilgner. I should like to supplement this passage by adding, "had there been no war." I personally, and all of us, frequently made the mistake, that

when reconstructing past events we no longer possess a sufficient power of imagination properly to reconstruct our position at the time.

When the commercial committee was reorganized in the year of 1937, we were living in a peaceful world and had hopes of realizing our plans of industrialization. I think if it had not been for the outbreak of the war, the overstaffed office of the Commercial Committee, would have been fully employed after the year of 1939.

Q. Is there any further correction in that affidavit?

A. No.

Q. This affidavit, with the additions and corrections that you have made, then, after reading it over quite a number of times, reflect your present and correct point of view of the facts; is that right?

A. Yes.

Q. Now the next affidavit is Exhibit 510, NI 9457. Do you have any additions or corrections thereto?

A. No. With reference to this affidavit, I have already stated that another statement, which I wrote in the year of 1945, in the English language, was only laid down on the basis of my memory without any proper, systematic materials at my disposal. In other words, I have only mentioned those men of Farben whose names I could remember. These were the gentlemen who were in any way active with the Army, with the military government or in occupied countries. I did not state that these gentlemen were assigned to their tasks on the basis of their position with Farben, and it is quite possible that by accident, they were in the army anyway, and assigned from the army to a technical or administration post.

Q. Is there anything further?

A. No.

Q. The next document is NI 1294, Exhibit 611. Now, witness, with respect to that statement, is there anything that needs correction?

A. No. I have already said that the statement was compiled only on the basis of my memory, and that I have nothing further to add.

Q. Now that is the statement made in 1945, which is referred to in the prior affidavit. The next document then is Exhibit 759, NI 10679. With respect to that affidavit you have some additions to make. Will you try to be brief and state very shortly what you need, what you think is necessary in order to make the points clear and unmistakable?

5

A This Exhibit is 759? Is that right?

Q That's right; yes.

A I should like to say the following with reference to paragraph II. "In many cases, but not too frequently, gentlemen of Farben were asked for assistance merely on the basis of their business abroad and not only because of the strong position in the field of foreign exchange. The strong foreign currency position of I.G. Farben played only a relatively small part for the Reich because the Reich, exhausted all foreign currency anyway which was gained by German economy." When I say "in most cases" it is wrong. It should read "in most spheres."

With reference to Paragraph III, I say that "I assume that I.G. had imported or introduced rubber and oil upon request of official agencies. I am not a technician and therefore, I made an error. The IG naturally needed rubber for their own purposes and I actually know of only one case - which I learned that after the collapse - that the IG actually introduced this product upon request of official agencies.

Q Do you remember the incident?

A No, Mr. Sprecher, I already said that I only found out about this large oil import after the collapse.

Q Where was that from?

A I found that out during discussions with gentlemen of the prosecution.

Q Very well. Go on.

A With reference to Paragraph IV I have to make a brief statement regarding the manner in which the situation was handled in the year of 1935.

In the Ministry of Economics activities started which were designed to increase the export after Hitler had come to power in 1933 the export had been defamed as something not worthy of national tendencies. The new collaborators in the Ministry of Economics, therefore, hit upon the strangest methods and one day arrived at the idea of

financing a certain firm Brinckmann, who were producing dirigibles and they wanted to sell these blimps to America for advertising purposes. We placed the currency at the disposal of the Ministry of Economics which made it possible for the Brinckmann Firm to establish themselves. I don't think that this firm ever before had produced dirigibles and I think, therefore, went bankrupt. With reference to Brinckmann I say that I no longer remember the extent of the so-called "Yen amount." I do remember that it could not have been very large. Mr. Puhl, who at that time was a member of the bank directorate concerning foreign currency questions --

Q The Reichsbank?

A Yes. Reichsbank. -- had heard that I was flying to London to discuss questions of credit and he got in touch with me by telephone saying that Schacht was presently carrying on difficult negotiations with the Japanese regarding a new trade agreement and he asked me whether he could get Yen in any form. I told the gentlemen in London about Mr. Puhl's desire and while we were already discussing the I.G. credits we also dealt with the matter of the Yen amount which was later repaid through funds of the I.G. With reference to Paragraph C, under 4, I have to state in supplementation that the I.G., with reference to taking over credits, was not only approached by the Reichsbank but also by Lloyd's, who preferred to have the IG as their debtor because of their foreign participations rather than another firm in Germany which was not capable of producing foreign currency. We, in the IG, were only willing to take over these credits, in other words, our currency obligations in Swiss Francs or Pounds could only be increased by us only if, in turn, the foreign creditor was ready to place the very same amount of new foreign exchange at our disposal.

Q Witness can't you shorten the explanation?

A I only want to mention that we profited by these measures in getting new foreign currency credits at a very low interest rate

according to this agreement. With reference to Paragraph V I have to say the following: these losses during export came about in the following way; one year before the war, I don't quite remember what year it was now, the Reich Government proceeded to increase export by setting up a so-called "Fund for Export." Money for that export fund was to be raised by industry. Farben had to contribute, I think, 25 to 50 million Reichmarks per year. It was the aim of the Commercial Department and also the aim of the Berlin Finance Department to get as large an amount as possible back from this fund. Consequently, Farben carried out business at a loss - by that I mean business which was still in the interest of Farben - mainly export business which tended to maintain those markets which were in any way endangered. In this manner Farben succeeded in getting back approximately 50% of the funds they paid into this export fund.

Q Anything else to that affidavit?

A No, nothing further to add.

Q Now, Mr. Witness, what you say must be pretty much in your own records but can you choose a way of expressing yourself more distinctly, if possible? Now, the next Exhibit is 767, Document NO. NI-10546. Do you have anything further to add to that affidavit?

A No.

Q Does that cover the corrections and additions which you want to make at this time concerning all of these affidavits?

A Yes.

MR. SPRECHER: No further questions.

THE PRESIDENT: The defense may cross examine.

CROSS EXAMINATION

BY DR. BOETTCHER:

Q Dr. Boettcher. Witness, I have only very few questions with reference to your affidavit NI-1294, English Book 25, page 60, German Book 25, Page 3, Exhibit No. 511. Only excerpts of this affidavit have been reproduced in the English Book. I am referring to this first paragraph of this excerpt. In the German version you will find it in the second paragraph of this affidavit 511. Witness, am I correct in assuming that you compiled this affidavit in the English language?

A Yes, I wrote it in English.

Q The German text before me is a translation from the English?

A Yes.

Q Do you believe that the expression you choose in the English version, that is, your version, and I quote: "The placing of Krauch at the disposal of the Four Year Plan was a contribution." "Extended to the Party". Do you think this word "contribution" is properly translated into German? Do you think that this translation represents the situation properly as it prevailed at the time? Just answer with a "yes" or "no".

A I would have translated this word differently.

Q In other words, "no". Did you not intend to say that the placing of disposal of Krauch was a burdensome tribute which in view of the situation, however, could not be avoided.

A Yes.

Q Thank you very much. Did you know that "r. Krauch, upon request and with the approval of the Chairman of the Aufsichtsrat of I.G. Farben was placed at the disposal of this office?

A Yes.

Q Is it true that Prof. Karl Bosch was at that time the Chairman of the Aufsichtsrat?

A Yes.

Q Was Prof. Karl Bosch known as an express enemy of the Nazi regime?

A Yes.

Q Would it be correct to say that if the Chairman of the Aufsichtsrat of Farben places his best chemical engineer, at the disposal of this office, he was doing so in order to prevent that another man, a Party man, would come into this office?

A That's also my conviction.

Q Would it accordingly be correct to say that Krauch's nomination by Bosch was a nomination dictated by economic and in no way political points-of-view?

A That's correct.

DR. SCETTCHER: That's the end of my examination.

CROSS EXAMINATION (continued)

BY DR. BACHEM:

Q Dr. Bachem, counsel for the defendant Dr. Ilgner. Dr. Frank-Fahle, I should like to discuss with you the affidavit NI-5169. This is Exhibit 360 which you will find in Book 13, English page 22, German page 143. In this affidavit you are speaking about propaganda for Farben products carried on abroad. Furthermore, you are discussing the Propaganda Commission Farben. Dr. Fahle, was Dr. Ilgner a member of this propaganda commission of I.G. Farben?

A No.

Q In that case it would be correct to say that Dr. Ilgner had nothing to do with this propaganda?

A Yes.

Q In your affidavit you are furthermore discussing the organization of Farben Berlin-NW-7. Is it correct to say that the fact that it was impossible to concentrate all commercial central departments of Farben in Berlin was the main reason why the Organization Berlin-NW-7 never received a proper designation?

A That's true.

Q In connection with the Berlin NW-7 office you mentioned the expression "Departments for Central Auxiliary Functions." Did you intend to say by that that Farben Berlin NW-7 carried out a number of central

auxiliary functions for Farben in particular for the sales combines?

A Yes.

Q In this connection you further mentioned as branches of IG-NW-7 Berlin, the Central Finance Administration, the VOWI, the WIPO the Press Department and a number of others. Is it true that the Central Finance Administration was the most predominant in significance?

A That's correct. The Central Finance Department was the main department in NW-7.

Q Would it be possible to say that the central auxiliary functions, of which you are speaking in your affidavit, increased considerably and progressively during the course of the years and as the planning economy in Germany increased, starting with the crisis of 1931?

A Yes.

Q Then one could say that by virtue of this development the activity of the WIPO in particular received an ever increasing importance because this was the agency which was competent for the sales combines; is that true?

A Yes.

Q Concluding this chapter could one state that the auxiliary functions which were exercised by I.G. Berlin-NW-7 throughout these years ever since its existence until the very end was only dictated by economic necessities of I.G. Farben?

A Yes, one could well say that.

Q You are furthermore saying in your affidavit that Dr. Ilgner was Dr. Krueger's superior from the years 1933 until 1945. In this connection let me ask you whether it's true that Dr. Ilgner from 1933 to 1945 was away about half of this period because he was either ill or on trips and that Dr. Krueger during this time of absence of Dr. Ilgner's took over and carried out the leadership of NW-7? Is that true?

A Yes, it is.

Q Doctor Frank-Fahle, you said something about the old Commercial Committee before supplementing some your affidavit. In this connection

do you remember that the question of the South American trip of Dr. Ilgner's came up and was discussed in the old Commercial Committee in the Spring of 1936 and was approached actively?

A I don't remember that because at that time I wasn't ver much concerned with it. This matter was discussed by the old Commercial Committee or the Vorstand or another similar body but I don't now recall whether it was the old committee, the Working Committee or Vorstand.

Q But do you know this was decided in one or the other of the IG bodies?

A Yes. It was discussed and even approved.

Q You are further saying in your affidavit that Dr. Ilgner was very much impressed by the rigid and strict organization of English and American firms?

A Yes.

Q Did you know that Dr. Ilgner, particularly on the occasion of his two transatlantic trips to Asia and America went to Du Pont and Standard oil and acquainted himself with forms of organization and institution of supervisors, and which, he, in turn, recommended for purposes of the IG and that arising from this trip the institution of "Liaison man" for IG was developed?

A Yes, He mentioned and was very much impressed by the institution of the post of "general supervisor". I think that was true of Dr Pont and Standard Oil and ICI. He endeavored to bring about a similar institution by creating the position of "IG Liaison Man."

THE PRESIDENT: Counsel, it's time for our morning recess and we will rise at this time.

THE MARSHAL: The Tribunal is again in session.

MR. SPEECHER: May it please the Tribunal, if Dr. Bachem doesn't mind, I would like to interrupt his cross examination in order to make an announcement.

THE PRESIDENT: Very well.

MR. SPEECHER: Dr. Boettcher, on behalf of all defense counsel, during the recess, handed me a list concerning various categories into which the defense, from their point of view, desires to place certain of the affiants - persons who have given affidavits which have already been introduced in evidence in this trial. Since the prosecution has already ordered some of the witnesses to come in where it appears the defense is now willing to waive cross examination, I would like to have the record clear concerning this matter so that we can make our proper plans accordingly, and if I may take a little time, I think I can straighten the matter out since the defense has been good enough to arrange these more or less alphabetically.

THE PRESIDENT: Pardon me. Dr. Boettcher isn't presently in the court room. Is there some one here who is familiar with this matter that would feel justified in representing and speaking for him in connection with the subject that the prosecution has mentioned.

DR. GIERLICH: As far as this list is concerned, I am informed about the details and I may be able to make explanations.

THE PRESIDENT: Now, will you please state your name so that it gets on the sound track.

DR. GIERLICH: Gierlich.

THE PRESIDENT: Very well. Thank you, Doctor.

MR. SPEECHER: Defense counsel had indicated that they would like to call the following affiants or to have the prosecution call the following affiants for cross examination:

Hermann Baessler, whom we plan to have within the next day or two.

Diekmann, Heinrich, who has given two affidavits and there is another one on the way and perhaps, by the time he comes, we can have cross examination concerning all three.

The witness, Frank Fehle, who is now on the witness stand.

Guenther Gorr, who has given two affidavits.

Erich Gritzbech, one affidavit.

Koerner, Paul, who has given four affidavits.

Albert Speer, one affidavit.

Richard Paulmann, one affidavit.

Paul Dencker, four affidavits.

Ehmann, E H M A E P, one affidavit, to be distinguished from Ehrmann. That's where we had the difficulty before.

Hoffmann, Alfred Hoffmann, one affidavit.

Juergen von Klunck, one affidavit.

Otto Hauck, H A U C K, one affidavit, and Hochle, who has given a joint affidavit with Hauck.

Schrader, whom we have ordered already, who has given two affidavits, Gross, one affidavit.

THE PRESIDENT: Now, Mr. Prosecutor. Before you go into the other category that you referred to, perhaps this is an appropriate time to have a clear understanding with respect to the witnesses whose names you have just stated for the record.

Are we correct in assuming that it is the intention of the prosecution to produce the witnesses, whose names have been stated, for cross examination in due course in so far as it is physically possible to do so?

MR. SPEECHER: Yes, sir.

THE PRESIDENT: Very well. Now, you can go on and state to the Tribunal your understanding with reference to the other matter.

MR. SPEECHER: The defense counsel have indicated that they waive cross examination with respect to the following individuals who were

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affiants and whose affidavits have already been introduced:

Albert Eckert, who has given one affidavit.

Hans Eichwede, who had given two affidavits.

Friedrich Engel, who has given one affidavit.

Kurt Hertmann, one affidavit.

Otto Heilbrunn, one affidavit.

Helmuth Henze, one affidavit.

Walter Lenz, one affidavit.

Josef Knir, K A I E, one affidavit.

Herbert Kureck, two affidavits.

Hermann Luthar, one affidavit.

Albert Palm P A L M, one affidavit.

Heinz Schmied-Loasberg, one affidavit.

Baron Kurt von Schroeder, two affidavits.

Max Zeidelhack, three affidavits.

Walter Warlimont, one affidavit.

Hjalmar Schacht, three affidavits, and

Alfred Lingg, L I N G G, one affidavit.

That ends that particular group.

THE PRESIDENT: Now with respect to the list of affiants whose names have last been stated for the record, it will be and is the understanding of the Tribunal that the Defense has waived the production of those witnesses in person for the purpose of cross examination and has likewise waived, of course, the cross examination of those witnesses as to affidavits made by them and introduced in evidence by the Prosecution in its case in chief. If there is any misunderstanding in that regard, we expect to be advised of it now in order that future confusion may be avoided and the trial of the case expedited.

DR. von KELLER: Dr. von Keller for the defendant von Schnitzler.

Mr. President, the affiant Eckert has made an affidavit which deals primarily with the case of so-called spotiation in Poland. I request approval, to the effect whether Eckert can be cross examined by the Defense when Count II is discussed.

THE PRESIDENT: May I ask Counsel whether or not that affidavit is now in evidence, or is it an affidavit to be offered in evidence?

DR. von KELLER: The affidavit is already in evidence.

THE PRESIDENT: Does it contain material that relates to Count II of the Indictment?

MR. SPRECHER: I can quite agree with Counsel that that is true.

THE PRESIDENT: Is his name in the list of witnesses with respect to which Counsel for the Defense have waived the cross examination?

MR. SPRECHER: Yes, it is, but I can quite understand Counsel's point, and I will be quite willing to make that arrangement if possible in connection with Count II.

THE PRESIDENT: It would appear to the Tribunal that it would only be fair to allow Counsel for the Defense the privilege of cross examining the witness Eckert with respect to those matters that pertain to Count II of the Indictment, and we shall not consider that Counsel has waived that right. However, that does not prevent Counsel subsequently waiving it if they see fit.

DR. von KELLER: Thank you very much, Mr. President.

DR. WAGNER: Dr. Wagner.

Your Honors, unfortunately I am not able to join this statement of my colleagues. I must reserve the right to cross examine these affiants.

THE PRESIDENT: Will Counsel get his earphones, please, so we can communicate with him.

DR. WAGNER: I understand. I understand.

THE PRESIDENT: Very well. Is it the understanding of the Tribunal that the Counsel who has last spoken does not join in this stipulation with respect to any witness?

DR. WAGNER: No, not to any witness, but I have to examine especially which witnesses I will not need to cross examine. I have not been able to determine this yet because this is the first I have heard of this agreement.

THE PRESIDENT: Did you participate in the conference of Counsel of the Defense when this matter was under consideration?

DR. WAGNER: I was present at the conference yesterday, but this question was not discussed in my presence.

THE PRESIDENT: I think I am warranted in saying on behalf of the Tribunal that this presents a problem which we are going to have to deal with when we authorize the appearance of some twenty-four counsels in chief and a like number of assistants who create a situation where it

is going to be positively necessary to the orderly conduct of this case that when commitments are made, they must be binding upon all concerned. In view of the statement made by Counsel, it would appear that we have wasted a good many minutes in the hope of working out a matter by agreement here. Under the circumstances, the President knows nothing to do but to pass this matter for the time being until our informal conference this afternoon when we will deal with the subject of providing machinery to avoid such incidents as have now appeared.

I think I would be warranted in saying that you had better be giving some consideration to the question of constituting someone in authority to make commitments on behalf of Counsel for the Defense to this Court, because manifestly we can't have situations of this kind arise and maintain an orderly procedure in the trial of this case. Under the circumstances the matter will be set aside until our informal conference with Counsel this afternoon.

Counsel who was engaged in the cross examination of the witness on the stand may proceed.

MR. SPRECHER: Could I ask just one question, Your Honor, in this connection?

THE PRESIDENT: Yes, certainly.

MR. SPRECHER: It is with respect to Dr. Wagner, Defense Counsel for Wurster, and it has to do with a witness who has been brought here from the British zone and who would like very much to get back. There has been a waiver made as to him by other Defense Counsel, and I am wondering if Dr. Wagner knows the case now. It is the witness Palm. Perhaps I can take it up with him at the noon recess, but this indicates the problem from our point of view. We have made a special arrangement about getting the witness down here, and he doesn't want to leave and then

have to come down again. .

THE PRESIDENT: Well, talk to Counsel for the Defense over the noon recess, and if you don't reach an agreement as to the matter, we will undertake to make a record on it. If you do reach an agreement, we would like to know of it and enter it on the proceedings here so that there may be no future misunderstanding in regard to such matters.

The cross examination may proceed.

CROSS EXAMINATION - Continued

BY DR. BACHEM:

Q. Dr. Frank-Fable, in your affidavit you say that Dr. Ilgner increased the staff of employees in his various departments. Do you know that Dr. Ilgner to a considerable extent carried out this increase in the years '29 to '32 although because of an I.G. prohibition arising from the crisis, it was prohibited to employ new people?

A. I don't know that from my own knowledge since I only entered into the I.G. in the year of 1933. When I entered in 1933, I considered and found that as an already existing fact. Dr. Ilgner had these employees paid by another agency, because at that time, that is before 1933, economy measures were carried on throughout the I.G. Farben. A number of employees were dismissed. All those people who had been employed in the year of 1931 were paid through another firm, but I only found that out in the year of 1933.

Q. But you confirm that a large part of the men were employed earlier?

A. Yes, I know that.

Q. And in your affidavit you also say that in connection with the Nazi State which became more and more totalitarian and in connection with the developments of world economy there occurred more and more frequently conflicting opinions

within the sales combines, for example, on questions of duty and trade. You also say that arising from this entire development the new Commercial Committee was created in the year 1937. Is not the same hyanalogy true of the office of the Commercial Committee which is also mentioned in your affidavit, the B.d.K.A., and is this not also true of several departments of Berlin, NW/7?

A. Not so much of the office of the Commercial Committee, but it is mostly true of the so-called "WIPO", the Economic Political Department, who had contact with authorities.

Q. But is it not so as you testified a little earlier that the B.d. K.A. from the point of view of personnel increased considerably --

A. Yes.

Q. In connection with this development so that one is justified in mentioning the B.d.K.A. in this connection?

A. One can mention it in this connection, but those questions I indicated just now, duty matters and trade agreements, were dealt with predominately in the "WIPO".

Q. That is ture. Witness, to sum up, I should like to ask you on the subject whether it is true this entire organizational development in the commercial and the general economic sector of I.G. Farben was necessary for I.G. and, therefore, proper?

A. That is true.

Q. This morning you spoke of the participation of Dr. Paul Mueller of the D. A. G. in the E. A., the Commercial Committee. Since your secretary of the K. A. were present at most of the meetings, I ask you whether you had the impression that Dr. Paul Mueller considered himself a member of the K. A. at the meetings, that he had to accept instructions from the I. G. in this group?

A. That is not correct. Dr. Paul Mueller was absolutely sovereign within his sphere. As I already explained this morning, the other members of the K. A., Commercial Committee, were grateful for his presence during the meeting. He assisted the I. G. in strengthening their position, especially in Southeastern Europe. He gave counsel, as I stated in my affidavit; he had guests in the Commercial Committee from Pressburg and Vienna, Generaldirektor Phillip. He always appeared upon the request of Dr. Paul Mueller.

Q. Do you agree with me, Dr. Frank-Fahle, that expanding what you have just said somewhat, one can say that Dr. Paul Mueller was glad to take advantage of the K. A. meetings to talk to the gentlemen of the I. G. about mutual experience?

A. That is quite true.

Q. In your affidavit you have listed some subjects which were regularly discussed in the K. A. Among these questions you have not listed the question of industrialization, that is to say, the question of industrial willingness to aid other countries of the D. G. Was that not also a subject which recurred rather frequently in the K. A. meetings, especially in connection with Southeastern Europe?

A. That is quite true. I should have also mentioned that since Dr. Ilgner, in particular, but also other gentlemen of the sales combines very frequently dealt not only with the question of the industrialization of Southeastern Europe but also industrialization of Asia and South America.

Q. And in your affidavit you speak of certain differences of opinion

in the K. A. in connection with the appointment of I. G. liaison men. Did that have anything to do with the fact that the position of an I. G. liaison man similar to that of the supervisor in the foreign concerns, similar to the big American concerns, meant a preference given to the man concerned over other I. G. representatives in the country concerned, and that, therefore, it was often, so to speak, a prestige question for the various sales combines.

A. That is true.

Q. In your affidavit you also mention suggestions of Dr. Ilgner for contributions in the interests of strengthening I. G. influence abroad. Do you mean improving the export position of I. G.?

A. It is not easy for me to answer this question simply. Naturally, these money gifts were in the interest of the export. I remember that one of the greatest money gifts was directed to an institute in Vienna, the name of which I forgot, where courses were conducted, and we hoped that as a result of these courses we would get a new generation who could be employed in the sales combine of the various Southeastern countries. One could well say that these money gifts were serving purposes of the I. G. sales abroad.

Q. Must one not say that even if only indirectly they served the export interests of I. G., because the strengthening of I. G. representations abroad was exclusively a promotion and strengthening of I. G. exports?

A. Yes.

Q. In connection with your statement that Dr. Ilgner was a member of several semi-official Southeastern commissions, I should like to ask you whether you know that Dr. Ilgner assumed these positions only after 1941?

A. I know of that, yes.

Q. And do you also know that the industrialization ideas of Dr. Ilgner in Southeastern Europe, that is to say, technical and industrial

aid for these countries had been expressed long before his membership in the semi-official commissions from about 1931 on?

A. That is true, too.

Q. Do you know that this attitude and action of Dr. Ilgner, that is, to the promotion of industrialization in the Southeastern countries, was fundamentally opposed to the official State policy which merely wanted to get products out of the country?

A. That is true. Dr. Ilgner had great difficulties in carrying through his industrialization projects, firstly, because of the reason which you mentioned, and, secondly, because the financial situation made it very difficult to carry out these industrialization intentions, just because of the fact that we needed many products from these countries; we were on the debit side during the clearing negotiations.

Q. Financing was most difficult because of the official policy?

A. Yes, that's right.

Q. And in this connection I should merely like to ask you whether with your expression in the affidavit you do not mean to say that Dr. Ilgner in these Southeastern commissions wanted to apply Nazi methods?

A. I didn't mean to express that.

Q. In your affidavit you speak quite clearly of the H. A. minutes as aides memoirs. That is supposed to mean, is it not, that these minutes were to be sufficient to aid a person who had been present at the meetings himself to interpret and to do what was necessary, isn't that right?

A. Yes.

Q. You also say in this connection that you remember one case where the record was formulated with a view to outsiders. I can see that the example you give may be especially striking, but I ask you whether beyond that it was not true that during the period of the Third Reich the records were almost always made in such a way that the formulation gave no reason for criticism since one always had to expect that the minutes would fall into the hands of Party members, is that correct?

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A. Absolutely true.

Q. The one case which you mentioned was, as you write, that no representative of the I. G. was to go abroad who did not belong to the Labor Front, etc. Was not the purpose of this formulation to facilitate the difficult negotiations with the Foreign Organization of the Party and to protect the I. G. from further demands of the Foreign Organization?

A. I believe that is correct. I believe that this formulation was particularly intended for Mr. Weibl in order to facilitate his negotiations with the A. O., Foreign Organization. In other words, I think he showed this decision to the A. O.

Q. In connection with the creation of the B.d.K.A. (office of the Commercial Committee) which you have mentioned, I should merely like to ask you whether you know that as early as 1931 in Berlin there was a K. A. office which later by order of the I. G. in Frankfurt changed its name to "Sekretariat II"?

A. I didn't experience that at the time because I didn't belong to the I. G. that early, but it may be true. I really don't know.

Q. But you do know, do you not, Dr. Frank-Fahle, from your personal knowledge, since you were in Berlin from 1933 on, that the personnel of the later B.d.K.A. were in general already present in Sekretariat II?

A. Yes, that is what I said.

Q. In connection with the B.d.K.A. you speak of a card index of representatives abroad. I ask you whether this card index was the authentic source of information for foreign representations of the I.G. or whether the authentic information was not obtained from the sales combines?

A. The authentic information agency was certainly with the sales departments. The card index of the B.d.K.A. -- and I believe I stated that in my affidavit -- was only partly compiled by personnel of the B. d. K. A. because it had a surplus of personnel there who had to be

occupied somehow.

Q. But in any case I may state that it was not an authentic source of information?

A. Absolutely not.

Q. And I should like to ask you whether the same is not true in regard to the projects as well as regarding the charts concerning foreign sales which you mentioned. Is it not true in this respect as well to say that the authentic material on the subject came either from the Sparte concerned or from the central bookkeeping office concerned.

A. Yes.

Q. In connection with WIPO, which you mentioned in your affidavit, you give as the sole example of its functions its relations with foreign legations in Berlin. In relation to the other principal functions of the WIPO, such as customs, contingents and trade questions, was that not a very minor and insignificant function?

A. Certainly. I am not listing all the functions of the WIPO in my affidavit; I am only mentioning this as an example of a point of friction with the office of the K.L. The connection of WIPO with foreign legations was only a fraction of their activity.

Q. Then no doubt the same is true of the example which you gave for the VOWI. You speak only of obtaining statistical and economic data from abroad. That is no doubt only a minor source, while the main source of material of the VOWI came from Germany, is that not true?

A. Yes, from the Statistical Reich Department; that is the very same thing.

Q. You also say that the BdK.L. suddenly became smaller with the outbreak of war; aside from what you said this morning on the subject I should like to ask you whether this is not an indication that the BdK.L. was adapted only to peacetime work?

A. Absolutely. It had a great number of personnel because of the industrialisation projects in the various foreign countries.

Q. Dr. Frank-Fahle, I should like to pass to a second affidavit of yours, Document NI-1294, Exhibit 511, English Document Book 25, page 3; German Document Book 22, page 72. I assume that you have it before you.

In connection with this affidavit where you list the positions of I.G. employees in public and semi-public work, I should like to ask you a general question: whether it is not your opinion that the I. G. such a large enterprise with such a large staff of highly qualified, administratively trained workers that was natural that many of these employees were used in official positions during the war. Is that true?

A. Yes, that is true.

Q. Do you know in this connection that the case was similar in other countries; for example, England, where the I.C.I. sent a large number of qualified workers into official war work and was administration. Are you aware of that?

A. Yes.

Q. Dr. Frank-Fahle, another general question concerning your affidavit. Is it true that in this affidavit you speak of quite different categories of I. G. employees who were in official or semi-official positions, without making any distinction?

A. Yes.

Q. Then it is correct if I say that in this affidavit you list I. G. employees indiscriminately who were drafted for these official or semi-official positions, as well as I. G. employees who held such positions voluntarily, and finally even I. G. employees who were drafted as soldiers and only after they became members of the Wehrmacht were assigned by the Wehrmacht to such positions without the I. G. having anything to do with it? Is that correct?

A. That is correct.

Q. Now, for the sake of completeness, I should like to ask you whether you intended in this affidavit to list all I. G. employees who were drafted into the Wehrmacht, or whether the names listed are given merely because you happen to know them?

A. The latter is true.

Q. Only because you happen to know these names?

A. Yes.

And mainly because these gentlemen who were drafted into the Wehrmacht had a position which was not purely a part of military service?

Q. But you concede that at least to a large extent these gentlemen were first drafted into the Wehrmacht and then were put in such positions, and that the I. G. had nothing to do with it?

A. I admit that these gentlemen would have occupied these positions independently of whether they were employees of the I. G. or not as civilians.

Q. And I should like to ask you whether in this connection, merely to take an example, did the men whom you mentioned: Platzke, Kuegler, Otto Schiller, von Tuerpitz, von Meister, von Reumer, belong to this group?

A. Yes, they belonged to this category.

Q. Dr. Frank-Fahle, in connection with "Dienstverpflichtung," Labor Service, I should like to ask you whether it is not true that during the war every employee of the I. G. or any other firm could be drafted by the government for any government or administrative position?

A. That is true.

Q. And can one also say in this connection that a person who was drafted for such a position actually left his previous position with the I. G. or other firms?

A. Yes.

Q. Dr. Frank-Fahle, I ask you whether you agree with me if I say that the men who were drafted into the labor service and those who were drafted into the Wehrmacht, whom you mentioned in your affidavit, formed a very considerable percentage of the total of names listed by you, so that the number of I. G. men who voluntarily took on an official or semi-official position was relatively small?

A. Yes.

Q. In the beginning of your affidavit, Dr. Frank-Fahle, you said that the men of I. G. Berlin NW-7, who, in the course of the war, came to Dr. Krauch's office, continued to be paid by Farben Berlin NW-7. In this connection I should merely like to ask you whether the "One Dollar a Year Man" is known to you?

A. Yes.

Q. You also say that Dr. Fischer held an office in the Ministry of Economics, and you go on to say that from this time on he no longer

attended the meetings of the K.L. Are you aware that Dr. Fischer, at the beginning of the war, by order of the Reich Minister of Economics, became an official of the Ministry of Economics?

A. Yes.

Q. You go on to say in this connection that Dr. Fischer was Business Manager of the Continental Oil Co., G. Are you aware that he held this position as a representative of the Ministry of Economics on express orders from the Minister of Economics Funk, and that his position in the Continental Oil had nothing to do with I. G.?

A. I know that, yes.

Q. Under numeral 1, 2, in the supplement, you speak of Dr. Ilgner's membership in the discussion group of foreign economic questions.

You remark that the initiative for the creation of this group came from Mr. Mailer and Mr. Ohlendorf, in the Reich Ministry of Economics.

Dr. Frank-Fahle, I should like to put to you in this connection Exhibit 501 of the Prosecution; that is Document NI-1352, Document Book 2, page 51. I am sorry I do not know the English page.

This is a record of the meeting of the Commercial Committee of the first of March 1944, and you drew up these minutes. Under the heading Foreign Trade Questions, it says, and I quote: "The new foreign economy department of the Reich Ministry of Economics, headed by Dr. Kirchfeld, is to be activated by drawing in specialists from private enterprises within the framework of the Reich Group Industry, and by constituting a body of experts on foreign countries into which about a hundred businessmen are to be called."

Dr. Frank-Fahle, do you believe that your statement made at that time is quite correct? That is, that the discussion group was created by Mr. Mailer and Mr. Ohlendorf, and that it was these SS-men who used practical businessmen more than before? Would you not like to change your statement to read that the initiator of these measures was Dr. Kirchfeld who, himself, came from private business, and entered the Reich Ministry of Economics in 1943?

A. That is absolutely true, and I even mentioned Kirchfeld in my affidavit. If I have also mentioned the two names Hailer and Ohlendorf in that connection it is due to the fact that during the reorganization of the Reich Ministry of Economics Kirchfeld came under Hailer and Ohlendorf into the Reich Ministry of Economics. Kirchfeld, who was a practical businessman, had the idea of activating experts from private enterprises and thereby form this committee. This idea originated from Kirchfeld, and I also say that Kirchfeld took to the most lively interest in this committee.

THE PRESIDENT: Counsel, we have reached the lunch hour, and unless counsel is very nearly through we had better rise.

DR. BACHMANN: Mr. President, I have perhaps five or six questions, but of course I will be glad to ask them after the noon recess.

THE PRESIDENT: We will be in recess until one-thirty.

(A recess was taken until 1330 hours.)

AFTERNOON SESSION

(The Hearing reconvened at 1330 hours 13 Oct. 1947)

THE MARSHAL: The Tribunal is again in session.

MR. SPEICHER: Mr. President, I am authorized to state for Dr. Wagner that he has no objection to the waiver so far as Herr Palm (P-1-1-a) is concerned at this time, so that clears up the latter which came up this morning.

THE PRESIDENT: Then the record will indicate that the cross-examination of the witness Palm had been waived by the Defense as to the affidavits by that witness in evidence in this case.

The Defense may proceed with the cross-examination of the witness on the stand.

GUENTER FRANK-FAHLE (Resumed)

CROSS-EXAMINATION (Continued)

DR. BACHEL: (Counsel for Defendant Dr. Elgnar): We were just dealing, Your Honors, with Document NI-1294. I should like to continue with the discussion of that document.

BY DR. BACHEL:

Q Dr. Frank-Fahle, following the last question we discussed, I want to ask you whether you know that Mr. Ohlendorf was not the superior of Dr. Kirchfeld in the Reich Ministry of Economics, but that Ohlendorf and Kirchfeld were in the same position under Mr. Hailer in the capacity as Under-Secretary of State?

A I do not know that, but that may well be so.

Q In your affidavit you said on 10/10/47 that the Southeastern Committee of the Reich Group Industry worked in closest collaboration with the Reich Ministry of Economics and the Foreign Office. They participated in the drawing-up of trade agreements.

Aren't you making a mistake in this instance, and is it not true that the Southeastern Committee of the Reich Group Industry only had to do with the Reich Ministry of Economics? Do you know of that?

A It is quite possible that I made an error. It is quite possible that I confused the Southeastern Committee with the East Asia Committee. At any rate, I cannot remember a specific case.

Q But you think that it is possible that I am right?

A Yes. I think it is possible that I have been confusing this matter with the East Asia Committee.

Q In connection with A.G. Dynamit Nobel Pressburg, you mention that Dr. Gattineau became a commissar there. Do you know at the A.G. Dynamit Nobel Pressburg, ever since a long time, had belonged to the concern Dynamit Nobel Troisdorf?

A Yes.

Q After this clarification do you still believe that the employment of Dr. Gattineau as the Managing Director with DAG Pressburg had anything at all to do with the position of commissar, particularly if I put to you that Dr. Gattineau's employment in the business management of DAG Pressburg came about upon the suggestion of Dr. Paul Mueller and upon the election of the competent of the DAG Pressburg?

MR. SPEICHER: Mr. President, could I request a clarification of the question by way of simplification? I think it contains so many points in one that it would be difficult to have a plain answer. I am not sure whether there is an objection to one of the questions or not in its present form. I think he may be calling for the conclusion of the witness, but I can't tell because there are three or four different questions all locked together, any one of which could possibly lead to the result counsel wants. Probably there is no objection, but the question is so complicated I cannot tell.

THE PRESIDENT: In that same connection, it has been called to the attention of the President that counsel is apparently referring to Document NI-1294. Then perhaps we should remind counsel that only excerpts of that document are before us; the entire document is not,

and the parts to which counsel is referring in his question are quite apparently not in the excerpts that are already before the Tribunal.

In that view of the matter, this will probably not be appropriate cross-examination at this time. If we are incorrect in our conclusion, we shall be very glad to have you point out wherein we are wrong.

DR. DACHEN: Mr. President, in the German document book the entire affidavit had been included in which this question is contained. I do not know--and I did not know before--that this particular question is not contained in your English copy. Consequently, I believe that the entire document is actually in evidence and, therefore, all the points contained therein are subject to cross-examination.

THE PRESIDENT: Counsel would certainly be correct if the entire document is in evidence, and if a copy is in the German book it would be the proper subject of cross-examination. Perhaps counsel for the Prosecution can enlighten us with respect to the apparent discrepancy between the German book and the English books which are in the hands of the Tribunal.

MR. SPRECHER: Mr. President, may I get to that point by making one point first in connection with this general problem? Defense counsel approached me about this problem after there was some discussion in the Court about a week or ten days ago, and the Prosecution did make arrangements that in the future, where less of the document is reproduced in the English document book, then is reproduced in the German document book, there would be a certificate indicating that as near as it can be done, giving the problem of specification exactly as to where the paragraph breaks off.

In any event, that would give Defense counsel notice to check the English document book which they receive in common, and then to avoid such problems as this.

Now, with respect to the other question, Your Honors, I think the question of "what is in evidence" where we have the two languages

and where it is often necessary to mark into evidence an entire document because it may be referred to by the Defense at a later time, is a rather difficult point concerning which you can lay down any arbitrary rule. The problem is not new. It certainly arose in the first case where we had four languages and where many of the documents marked in evidence were not translated, and that led to the rule that in many cases you had to read the excerpts so that the contents that were in question which were being raised either by the Defense or the Prosecution was made plain to all participating parties: The counsel for the Prosecution, counsel for the Defense, as well as the judges who came from four different nations.

It seems to me, for working purposes, it is important what we bring to your attention through the documents or their oral references, and, similarly what the Defense brings to your attention in a similar manner. Oftentimes just because the Prosecution anticipates that the Defense will want to bring out other portions of the German document in the original we do mark the original in evidence.

THE PRESIDENT: In that connection, are we correct in assuming that the parts of the document that are before the Tribunal are less than the whole, and that the only part that the Prosecution at present is relying upon are the parts that are in the English books?

MR. SPEECHER: Yes, indeed, Mr. President.

THE PRESIDENT: Then it would seem that the question which counsel started to propound to the witness would be without the scope of cross-examination and without the scope of the inquiry unless counsel for the Defense wishes subsequently to use some additional parts of the document that have not been called to our attention.

In other words, it would serve no good purposes to cross-examine the witness about parts of the document that are not even accessible to the Tribunal.

DR. HOFFMANN: (Counsel for Defendant von der Heyde): Mr. President, in order that there be no renewed discussion of that very same subject at a later time, I should like to put a question to you at this point. In Volume IX, where there is an affidavit of the witness and he discusses the relationships of I.G. to abroad, these matters are brought up by the Prosecution in Document Books 46 and 49, books which, so far, have not yet been submitted. Therefore, it is not my intention today to cross-examine the witness about these matters, but I must reserve the right to do so such time when those documents will be available. I want to clarify this at this point.

THE PRESIDENT: You would certainly be within your rights in not assuming or anticipating subjects for cross-examination. If additional affidavits are offered in evidence of which this witness is the author, it would certainly be proper that you be afforded an opportunity to cross-examine with reference to those documents. And in that connection perhaps to the other counsel it would be sufficient for the time being to say that if you wish later to utilize parts of this document that are not before us, to put those parts in evidence and to interrogate this witness in regard to them, you would be within your rights in doing that. It is more a matter of order and timeliness just now, but the point we are undertaking to make to you is that it would not serve any useful purpose to cross-examine this witness with reference to parts of the document that are not before the Tribunal. We would have no way of attaching any significance or weight to such cross-examination because we would not have the text of the document itself in our possession.

DR. BACHEM: Mr. President, please let me just state that until now we did not know what excerpts were contained in the English document books. Consequently, we could not make appropriate arrangements. I also thought that the entire document was available in the English language.

THE PRESIDENT: We well understand your situation, Counsel, and certainly you are not subject to any criticism for pursuing the matter as you have done. The only observation that we would like to make at this time is that we think your cross-examination is improper because of the document not yet being before us.

I may say that since the Prosecution has offered a part of this document--and not the whole--the door has been opened to the introduction of it all; and if you want us to consider the whole document you certainly are within your rights in asking that the whole document be put in evidence, translated and be made available to the Tribunal. You may determine that now or later.

DR. GIMRLICH: (Counsel for Defendant Schmitz): Mr. President, in this connection we have a purely technical question before us. The document which was submitted to the Secretary General, on the other hand, is the complete document. We have got into the situation now where at a later date we would have to conduct a cross-examination on a document which is already in evidence with the Secretary General in its entirety and will not be introduced--and could not be introduced a second time by the Defense.

MR. SPRECHER: I hope I can be helpful there--

THE PRESIDENT: I hardly think it necessary. I think that we can dispose of that whole matter by a rather fundamental rule of practice; and that is simply this: When one party offers less than the whole of a document the other party has a right to insist that the entire document be submitted to the Tribunal trying the case. That is within the right of the defendant in this case. And since the document is the affidavit of a witness produced by the Prosecution, the Defense would have the right to cross-examine as to the entire document, of which only a part is presently before the Tribunal.

Now, that just leads us to this conclusion, that only a part of this document is presently relied upon by the Prosecution. If the Defense wishes us to consider the entire document or wishes to cross-examine the witness as to the entire document on proper request now or later, the Tribunal will order the entire document made an exhibit, and afford counsel for the Defense a timely opportunity to cross-examine the author of the document.

DR. BACHM: Mr. President, then in that case I am going to postpone the questions which I am putting now until such time as the question is clarified when the whole document will be in evidence.

I have another few questions but I see that they refer to points which are not included in the English excerpt.

THE PRESIDENT: Counsel may advise us in due time as to whether he wishes the entire document to be considered by the Tribunal, and wishes to cross-examine the witness further with respect to the document.

DR. BACHM: Your Honor, in conclusion I have a few very brief questions regarding the personal data of the witness.

Q. Dr. Frank-Pahle, were you a member of the NSDAP?

A. No.

Q. How did it come about that you, in your position, which after all was relatively high within the I.G., did not become a member and did not have to become a member of the NSDAP?

A. It was not necessary for me, and that also is true of many others of my colleagues in the I.G., who did not become members of the party. I think the reason for that is that the place of my activities was Berlin, and there we were not so much under the pressure of the Gauleiters as it was true in the case of the gentlemen in the provinces, for instance, gentlemen in Frankfurt under Sprenger, the gentlemen in Central Germany under Mutschmann and so forth.

The Gauleiter of Berlin personified by Minister Goebbels did not exercise the same pressure upon us as it was exercised in the provinces. Until the time of the collapse

or until a short time before that it sufficed when the representative members of the Vorstand of Berlin NW 7, Dr. Ilgner, became a member of NSDAP, and even that, so far as I remember, occurred at a rather late point.

Q. Then let me ask you, in this connection, whether on the part of Dr. Ilgner, whom you have just mentioned, value was attached that you, as his representative, - as his second representative, and later as his first representative, became a member of the party?

A. No, Dr. Ilgner did not attach any value to any of his staff becoming a member of the party, and did not exercise any pressure either. We weren't being so much exposed to this pressure in Berlin. Berlin had relatively few members of the party within our staff. We did not discuss these matters because that just wasn't necessary. At any rate I do not remember any pressure nor do I remember any discussion about that question.

Q. Finally is it true that quite independently of any pressure or otherwise, Dr. Ilgner in particular, did not attach any importance to that membership?

A. Yes, that is quite correct, he did not.

DR. BACHEM: Thank you, Mr. President. I have no further questions.

CROSS EXAMINATION

BY FRANK FAHLE,

BY DR. BERDF, counsel for the defendant Mann:

Q. Witness, in your affidavit, frequently you have used the word, "propaganda". You used that word this morning. Isn't it true that there is a fundamental difference between the English word, "propaganda" and the German word, "propaganda"?

A. Yes, There is a difference.

Q. Would you please explain this difference to us, so far as it concerns political propaganda on the one hand, and commercial propaganda on the other?

A. Let me state the following in that connection. In Germany, we always used the word, "propaganda" for matters which in the English language one calls "political propaganda" and simultaneously for what in the English language is called advertising or publicity.

If I remember correctly, as soon as Hitler got into power, and as soon as he finished NSDAP activated itself, a sharper distinction was made as to the word, "propaganda".

This came about because of the fact that Goebbels founded the Reich Ministry of Propaganda, and there were attached an exclusive political character to the word, "propaganda", consequently the word "propaganda" falls more or less within the political field, and was used in that manner.

According to the subsequent terminology, what in English is called "advertising" another word was used, "Verbung". I think that is true.

Q. You can even name an Institute which was called that way.

A. You mean the so-called Werberat for German Economy?

Q. That's that, right. Very well. Then within the I.G. there was a Propaganda Commission, the "Proko"?

A. Yes.

Q. Was this propaganda carried on in the English sense of the word propaganda, which has a political character, or what was it?

A. No. The Propaganda Commission merely tried to propagate the production of the I.G.

Q. From a commercial point of view?

A. Yes, strictly from a commercial point of view.

Q. Thank you. Then you mentioned a number of committees in your affidavit, the East Asia Committee, and the Southeastern Europe Committee, the Africa Committee, and the Russia Committee. I am now referring to the two latter ones. Can you tell me when the American Committee was founded?

A. I beg your pardon. There was no American Committee.

Q. I beg your pardon, I meant the Africa Committee.

A. I believe it was founded in the course of the war.

Q. In your affidavit you stated that it was on the 8th of July, 1941?

A. Yes.

Q. That is in the Commercial Committee record.

A. In that case it will probably be so.

Q. Was this Africa Committee ever activated?

A. I cannot remember having heard of it, and I never read or saw any record about any of its meetings.

Q. Is it possible?

A. All I know is that it was founded.

Q. But it is quite possible that it never got into operation?

A. Yes, that is possible.

Q. Is this also true of the Russia Committee? Was there a similar situation prevailing?

A. Well in the case of the Russia Committee I know of no meeting nor of a record of such a meeting, but it is true it had been founded.

Q. Can you tell me what purposes these committees served?

A. They had similar purposes as the Southeastern Europe Committee, and the East Asia Committee. They had to coordinate all questions concerning the I.G. in these territories.

Q. Was there a French Committee?

A. No.

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Q. Was there a French Committee?

A. No.

Q Was there a Polish Committee?

A No.

Q I am asking you because these committees are being mentioned by the prosecution in connection with Count II, Plunder and Spoliation in France, where such plunder is supposed to have taken place it was not prepared by any French Committee, if there was any committee.

MR. SRECHER: I object, "if there was a committee." The witness says that as far as he knew there was no committee.

THE COURT: Objection is sustained.

BY DR. BERNDT:

Q One brief question in conclusion. For some time you had been the Secretary of the Commercial Committee, - recording secretary?

A Yes.

Q Since when did you carry out these recording activities?

A Ever since the new Commercial Committee was organized in the year of 1937.

Q Were these records always in accordance with the truth, or were they dressed up somewhat at times?

A This question was answered in my affidavit, but I do want to repeat that matter. These records are truthful Aide Memoire, but as I stated in my affidavit, it is a matter of course that events occurred where formulation was done, in a form which in the English language is called, "window dressing", and for which I have not found an adequate expression in the German language.

I said in my affidavit that I clearly remember one such case of window dressing, but if I go through all of the records once more, it is quite possible that I shall once more remember one case or the other, but I have already said that this morning.

Q Was there a Polish Committee?

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I said in my affidavit that I clearly remember one such case of window dressing, but if I go through all of the records once more, it is quite possible that I shall once more remember one case or the other, but I have already said that this morning.

Q That was done then in order to give outsiders an incorrect picture for certain reasons.

A In this form I can neither answer this question "yes" or "no". We certainly did not want to bring about an incorrect picture.

Q Perhaps a blurred picture?

A Yes, a veiled or blurred picture according to what was necessary from a tactical point of view for our respective purposes.

Q Wasn't such a blurred picture created in a few cases in order to prove to the Party that certain measures were allegedly carried out, which in fact, however, were not?

A I could imagine that this is so, but I really cannot state here specifically that this was done, for instance, in the case of having to release Jewish employees. We always were in a tight spot there. On the one side, we wanted to keep them, and on the other hand, we had to emphasize to the AO that we were doing everything to get rid of them, but I cannot remember in what form that was done.

Q Isn't it true that in a case like that, something was changed and gotten into the record?

A I really can't remember.

DR. BERNDT: Thank you very much.

CROSS EXAMINATION OF

Witness FRANK-FAHLE

BY DR. THEOBALD counsel for the defendant Buergin:

Q Witness, would you please once more get hold of your affidavit, Exhibit 759, Document NI 10679, page 69 of the English book,

A Would you please repeat the exhibit number?

Q Exhibit 59, English Book 39, page 65 -- correction,

page 69, German page 114. Did you find this document?

A Yes.

Q Under paragraph 3 you say, and I quote: "In the years after 1933, the I.G. imported a number of products from abroad which were produced during the subsequent period within the framework of the 4-year plan synthetically", and then another sentence, and I quote: "in addition they imported molybdenum, Chromium ores, phosphates, tungsten". Are these sentences understood to mean that molybdenum, Chromium ores, phosphates and tungsten were only imported after 1933, as it appears from the beginning of this sentence, or what did you want to say?

A You are quite correct in putting that question. The first sentence in paragraph 3 is not clear. From my knowledge I can only make a statement about my experiments after I had joined the I.G., that was in 1933. It is probably a matter of course that the I.G. had always already imported molybdenum, Chromium ores, phosphates and tungsten.

Q Then if I understand you correctly, you only mention 1933 because you had knowledge about the I.G. only from that time on, but not because since then any changes were carried out as regards imports; am I right?

A Yes.

Q Do you know about the importance of these materials molybdenum, chromium ores, phosphates and tungsten as a salesman, and can you confirm that these products before 1933 and thereafter, were not only imported by the I.G. but also by other agencies in the Reich?

A I do not want to reply to that question I really do not know.

CROSS EXAMINATION

WITNESS FRANK FAHLE

BY DR. HOFFMANN, counsel for von Der Heyde:

Q Witness, since I do not know which parts of your affidavits are available to the Tribunal, and since too, some of the records you compiled were "window dressing", as you said, I want to discuss the contents of the statements you made independently of your affidavits.

My client is principally interested in the question of deferment. Let me ask you first of all what was your rank in the German Wehrmacht?

A Captain.

Q Therefore you are an expert in that field to a certain extent, are you?

A Well, I would not exactly call it expert, but I do know something about it.

Q The introduction of general conscription in Germany is known to you?

A Well I cannot give you the exact year, but I think it was in 1935-36 or 1937.

Q Am I correct in saying that with the introduction of general conscription, all Germans were registered?

A Yes.

Q Do you know which agencies carried out that task?

A Yes, this was done by the Military District Command.

Q Is it true that all male Germans had to register there?

A Yes.

Q The aim of this registration in the case of a general conscription was that finally they could be drafted into the army?

A Yes, they could be drafted into the army, or be selected for other military uses.

Q Within the framework of this general conscription, do you think that it is surprising that one considered the question as to who would have to go out and bear arms at once and who would have to stay at home in order to maintain factories and businesses?

A No.

Q For that reason the fact that even before 1933 questions of deferment were discussed is that something which came as a result of the public introduction of conscription or was that something out of the ordinary?

A That was a very natural measure.

Q Was this measure kept secret?

A No.

Q Do you know that after the introduction of general conscription, military passes were issued to individual Germans?

A Yes, I know that.

Q Did everyone who had such a pass carry it about in his pocket, or did it have to be kept safe or secret?

A Well, he didn't have it in his pocket, but I am sure that he kept it at some safe place with all of his other papers.

Q Did any person who was deferred receive a certain paper to that effect?

A As far as I remember, he did. That was also before the war. In supplementation, let me state that whoever was selected for active duty in case of war had already his draft papers in his pocket for case of mobilization, and I think that is the case everywhere.

Q Did you consider this deferment to be a secret matter or did you have this military paper with you with all your other papers?

A Well, I personally was not really deferred. Thus, I cannot answer this question. In our organization in Berlin it was unanimously agreed that, for some time, at least in case of war coming about, my own person could be dispensed with. That is what I did not receive a deferment.

Q Did you think that this fact of deferment was a sign for the preparation of aggressive war, or did you consider it to be a normal measure?

A These deferments were listed by commercial firms in order that the commercial machinery would be maintained in case of war. However, there were military exercises, etc., and a number of commercial personnel had to leave. Consequently, an agreement was reached with the Reich Ministry of Economics and with the staff of Thyssen in order to make a decision what personnel had to be kept in order to maintain the commercial machinery of the I.G. Farben. This list was actually asked for by the authorities.

Q Very well. But did you see anything special in that?

A No, this was a measure which was ordered by the government and this probably holds true of every country. One has to prepare for the eventuality of war with reference to military conscription.

MR. SPRECHER: Mr. President, I have wanted to object to a number of questions but, because counsel doesn't wait for the translation to come through and because I didn't like to interrupt the witness during his cross examination, I have not objected before. But I now move to strike the last part of this testimony as completely irrelevant and immaterial. He is talking about the views of the authorities with reference to an individ-

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ual deferment and it has nothing to do with the discussions of the Mob-Fragen in the meeting of the Commercial Committee or of any of the other committees of I.G. Farben.

THE PRESIDENT: The motion is overruled.

MR. SPRECHER: May I ask that counsel not place his questions before the translation comes through or while I am standing waiting to make an objection or I cannot perform my function as prosecutor.

THE PRESIDENT: Well, that objection is well taken and if we may have an understanding of practice here that whenever any counsel is questioning a witness and another counsel approaches he take that as a sign to ascertain whether or not counsel is there for the purpose of making an objection and, conversely, if counsel is questioning a witness it will be well to stay away from him so that he will not be disturbed by thinking an objection is coming unless you have something to communicate to counsel, that is conducting the examination. I think that will go for a more orderly conduct of the trial.

You may go on, Doctor.

DR. HOFFMANN: May I make a personal remark? Carrying on my cross examination I did not notice counsel for the prosecution standing by. I would not have asked more questions had I noticed him.

THE PRESIDENT: Very well. We ascribe no improper motives to either of you gentlemen. We're just trying to work out a little system here that you will all understand and that will expedite the orderly trial of the case.

BY DR. HOFFMANN:

Q Witness, in your records regarding the Commercial Committee you stated repeatedly that my client von der Heyde was occasionally present or, in other words, from time to time. What did you mean to say by that?

A It means that Dr. von der Heyde, as a rule, only attended the meetings of the Commercial Committee whenever his special field, which was the M Question, was discussed.

Q Witness, you said "his special field, the M Question". According

to your opinion, what did this M Question contain?

A This can be seen from the records of the Commercial Committee. These were measures about which I already testified. The compilation of lists as to who would have to be deferred, priority degrees, etc.

Q Was this a very important task or could any one else have done that?

MR. SPRECHER: The question of whether or not the Mob-Fragen were important or unimportant tasks I take it to be one of the questions Your Honors have to decide. To at least the form in which that question is put I must object.

THE PRESIDENT: Well, that does perhaps call for a state of mind which is somewhat hard to convey to the Tribunal. Whether or not the function was or was not important means whether or not the witness regards it as important or unimportant, he may answer. The question of whether it was important or unimportant, if it becomes important, the Tribunal will determine.

DR. HOFFMANN: Mr. President, that is how I intended to put the question. Whether the question of deferment, from an objective point of view, was important or not is not for me to decide. I was asking if, from the opinion of the witness, this was a particularly important task which my client was charged with. Since the witness was my client's superior, it is my duty to ask the question.

THE PRESIDENT: Witness, do you understand the question?

THE WITNESS: Yes, I understand the question.

THE PRESIDENT: You may answer it.

THE WITNESS: Dr. von der Heyde, in the Weapo, had the department Wehrwirtschaft (Military Economy). Consequently, he was the man who had to deal directly with the military district commands or with the agency superior to the military district command respectively and with other superior agencies. For that reason, he was best informed about technical details. Naturally, it would have been possible that Dr. von der Heyde

could not possibly remember all these technical details himself about who had to go into the army at once, who was to be deferred, etc. and that he would have to entrust some of these details to some gentlemen of the NW 7, Berlin.

THE PRESIDENT: Mr. Witness, will you please tell us whether or not you personally regarded that as an important function, and I hope you can answer it "yes" or "no".

THE WITNESS: Your Honor, I want to say that information about mobilization questions could also be given by me, or Dr. Ilgner or Dr. Krueger to the body of the Commercial Committee. It was more convenient for us though to call in the expert in order that we didn't have to go into all these details.

THE PRESIDENT: We should like to get the question simply answered and we will lead you a bit. Is it true that you regarded the functions performed by this individual as important?

THE WITNESS: No, as I said, I could carry them out. I didn't consider them very important.

THE PRESIDENT: Very well, the question is answered. Ask another question.

BY DR. HOFFMANN:

Q Witness, one more question. Do you believe that in the case of the individual plants of the I.G. there were not very many von der Haydes?

A Certainly, there was an expert on these questions in every I.G. agency.

Q One more thing. In one of your records you said and I quote: "Information was desired about the fate of some of the I.G. gentlemen in Belgium and Holland."

This is not quite clear to me. Will you say something about that?

A As far as I remember, Holland and Belgium were invaded on the 10th of May, 1940, by the German troops. The foreign business of I.G.

necessitated a number of the gentlemen being on trips abroad at the time of the invasion. When the attack on Holland and Belgium took place there were the gentlemen from the I.G. on business trips in Brussels and Amsterdam. For instance, Dr. Gierlichs and I in Amsterdam, and Prokurist Haber from Agfa and other gentlemen in Brussels. In Amsterdam there were a number of other gentlemen from Frankfurt. The gentlemen in Brussels experienced a very harsh fate. They were taken as far as to the Pyrenees, their trains were shot at by German planes and this statement of mine in the record of the Commercial Committee refers to whether one had had any information about these gentlemen who had been taken away from Brussels.

Q Is it true that the I.G. was completely surprised by the aggressive war against Belgium and Holland?

A Yes.

Q I have no further questions.

MR. SPRECHER: I think that for the guidance of counsel, if it pleases Your Honor, I would at least like to have that question and answer stricken as being beyond the scope of cross examination. The item referred to is merely in the KA Minutes and it had nothing whatsoever to do with respect to I.G.'s attitude and the attitude of I.G.'s leaders toward an aggressive war, and I would describe that as more or less a sleeper question.

THE PRESIDENT: After all, that is one of the ultimate questions that the Tribunal is called upon to determine, and without weighing the technical objections as to whether it is strictly admissible, the objection is nevertheless overruled.

BY MR. GIERLICH: Dr. Gierlich for Geheimrat Dr. Schmitz. Dr. Frank Fahle, I want to put to you a few questions concerning Document No. NI-10679, Exhibit 759, Document Book 39, page 69 of the English, Page 114 of the German text. Dr. Frank Fahle, by virtue of your professional activity and your official position within I.G., did you form a judgment on the foreign currency situation in Germany?

A Yes.

Q Would you have insight into the legal regulations governing foreign currency questions in large outlines?

A Only in large outlines.

Q When did foreign currency control take place in Germany?

A That was after the First World War had ended.

Q That was for the first time?

Q Yes, for the first time; then, after the stabilization of the Reichsmark 1923/24 it was loosened and finally dropped altogether. Then the control of foreign currency was re-introduced on the pattern of 1919/20, that was in the years after the "Kreditanstalt" in Austria had crashed, or, respectively when the customs union with Austria had been rejected, which was the cause for the foreign currency crisis in Europe. That was in 1931 or 1932.

Q It was the emergency decree of Hindenburg of July 1931?

A Yes, that's right; in 1931.

Q It is true that because of these currency regulations the disposal of currency procured by German industry went over to the Reichsbank entirely?

A Yes.

Q Is it furthermore true that this right of disposal did not concern only the currency already in hand but currency to be expected in the future?

A Yes.

Q Can one then generally justify the assertion that German

industry ever since 1931 with respect to currency gains, no matter where they came from, only carried out an administrative function for the Reichsbank?

A: This was true from a legal point-of-view, and to a large extent also was actually the case.

Q: If one then considers these basic currency regulations one concludes that the Reichsbank in all question regarding currency gain of German industry and thus also of I.G. had the final right of disposal; is that true?

A: Yes, it is.

Q: Now, if you say in our affidavit under Paragraph I¹ that the I.G. was repeatedly approached for assistance it only meant considering what we have said before—that this was just the polite form of a request which could have been also given in form of an order. Is that true?

A: Yes, if you remember correctly I have already stated this morning during the time I was examined by Mr. Sprecher that the expression in my affidavit "in view of the strong currency position" I do not like at all any longer.

Q: Very well. And this morning you also substituted the statement "in varied cases by the words "in a few cases".

A: No I said in "various spheres." That's how I modified it.

Q: But there were very few such cases?

A: Yes, very few.

Q: Since the translation this morning for technical reasons didn't come through on one or two occasions I once more want you to confirm that you corrected your original statement about the I.G. importing natural rubber in the interest of the Reich?

A: Yes, that is, the words "in the interest of the state".

Q: Under Paragraph 4-A you deal with the currency transactions Brinckmann, Dr. Frank-Fahle, do you know whether the I.G. had a direct business interest in this action because a part of this credit

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was to be used for export purposes of the I.G.?

A I only remember that in the Brinckmann case we had the possibility of using Sperr-marks (blocked Marks) or dollar bonds, etc. for the export.

Q Then your sentence "by request of the Reichsbank and other governmental agencies" is not well chosen?

A Yes, Dr. Gierliche, the initial sentence is not well chosen because these cases are very singular and I almost hesitated to bring the entire Brinckmann matter into the affidavit at all. This matter originates from a statement which I made in 1945 in connection with some more matters. That's the reason why I had to bring it in once more.

Q Would you once more repeat because it also did not come through this morning what the purpose of these disfigured were Herr Brinckmann was producing? Did they have military value?

A No, I think they were to be used for advertising purposes or something like that and I never saw them they were. as far as I know, never produced. They were to be available as export articles and for the purpose of getting currency.

Q Do you know who gave the order?

A I think the United States.

Q This morning you clarified this matter of the so-called "moratorium". I only want to ask you whether you agree with me that in cases where the I.G. took over such credits it was always because of a very considerable business interest of the I.G. which on the other hand were often identical with the desires of foreign creditors and occasionally with the desires of the Reichsbank?

A That's true. I tried to clarify that this morning.

Q The taking over of these "moratoriums" brought the I.G. and therewith the Reich no additional currency; is that true?

A That's true.

Q Under Paragraph V of this affidavit, Dr. Frank Fahle you are discussing the businesses undertaken at a loss in the case of export markets. If I understand you correctly, you modified the quotation "in order to increase the currency stocks of the Reich" by saying this morning that the motive of I.G. Farben in participating in these measures was the well-founded desire to set back some of the 15 million Marks which the I.G. had to contribute toward the fund?

A Yes, that's true.

Q As a second motive could one characterize the tendency of the I.G. to maintain their threatened export by utilizing the means developed by the state for promoting exports?

A Yes.

Q In the final analysis what was the reason for the difficult German export situation in some critically important markets?

A Mainly it was because of the fact that the German currency, Reichsmarks, after 1931 became the only currency of any large country in the world which kept stable and was not devaluated. Consequently, its level was far too high as compared with the currency of Great Britain, the United States, Holland, France Belgium, Switzerland, etc.

Q In the case, when considering the export sponsoring measures of the German Government in their entirety could one say that they constituted an attempt to carry on some sort of devaluation at least in the sphere of exports?

A Yes.

Q From an economic view-point it seems to be a healthy and understandable policy if the I.G. as well as the other industrialists participated in these measures according to the general line?

4. 500

A. I wrote it in the English language.

Q. Would it be correct to say the invoicing?

A. Yes, the invoicing.

Q. And how about the second curve?

A. The second curve intends to demonstrate the actual influx of currency. That is the currency which was actually entered in the accounts of I. G.

Q. How about the third curve?

A. They refer to how they were passed to the Reichsbank.

Q. Was a difference made between the so-called "free currency" which was the only foreign currency actually available to the Reichsbank and the "clearing currency"?

A. as far as I remember the last 2 curves only concern free
currency and no clearing currency.

Q. In other words, all clearing currency, that is, all receivable amounts being paid by way of clearing agreements with the individual countries, can be seen in a difference between curve one and two.

A. Yes, this is how you see this ever increasing difference.

A. Yes.

BY DR. VON KELLER (Counsel for the defendant von Schnitzler):

A. I would prefer calling it "Positions of an Official, Semi-Official and Military Nature."

Q. You did not enumerate these names as I assume, because those three gentlemen before 1933 occupied these said positions?

A. That's correct.

Q. Would it be correct to say that positions as they were occupied by Mr. Warmbold or Mr. Duisberg, for instance, after 1933, were not occupied by any other gentleman of the I.G?

A. That is true.

Q. In view of that, would it be correct to say at before 1933 the I.G. in this field had employed more important persons than afterwards?

A. Yes, at any rate, the position Geheimrat Duisberg had as the head of the Reich Association of German Industry, which was a position which he never again had under the Nazis; and the same applied to the Reich Minister of Economics.

MR. SPRECHER: Your Honors, since the organization was abolished when the Nazis came to power it is scarcely possible that any one of the I. G. or anybody else could have held the exact position. I must move that the question be stricken and the answer be stricken for having assumed a fact not in evidence; thereby the answer can have no meaning.

THE PRESIDENT: Well, the course of this examination appears to be proper in so far as it throws light on the compilation that is before the Tribunal and which is made by this affiant. Perhaps, instead of an objection the door has been opened to some redirect examination in which you could develop that idea, Mr. Sprecher.

The objection is overruled.

BY DR. VON KELLER:

Q. Witness, do you know that the Reich Association of German Industry even after 1933, continued to exist?

A. Yes, as far as I know, Geheimrat Duisberg was the last head of the Reich Association of German Industry, who was not appointed by the Nazis.

Q. I think that is true. The Reich Association, as such, continued.

A. Yes, it was changed into Reich Group for German Industry.

Q. Could one say that the positions which were held by the gentlemen of I. G. the official, semi-official or Wehrmacht positions were political positions, and I am now referring to the gentlemen whom you mentioned in your affidavit?

A. It is very simple for me to reply to that. They were not political posts.

Q. In conclusion, is the relation of the gentlemen of the I.G. whom you mentioned to the gentlemen belonging to the other firms within the chemical sector very close, and was the number of these gentlemen determined by production volume of I.G?

MR. SPRECHER: I must make the objection there is no qualification here that this witness is qualified to answer that question, No. 1, and No. 2. It's beyond the scope of proper cross examination.

THE PRESIDENT: That objection will be sustained.

Q. Witness, in your affidavit under paragraph I, under Capital & you say that Dr. von Schnitzler was Vice-president of the Economic Group Chemistry. This you will find on page 4 of the German text. I think it's the 11th line from below.

A. Yes.

Q. Did you know that Dr. von Schnitzler resigned from this position at the same time as Mr. Hess?

A. Yes, I think I said that. After Hess had resigned, Schlosser became his successor.

Q. And Mr. von Schnitzler, too?

A. Yes.

THE PRESIDENT: Counsel, it is now three o'clock and unless you have only another question or two, we should like to suspend.

DR. VON KELLER: I have a number of questions to put to the witness.

THE PRESIDENT: Very well. The Tribunal would remind counsel that we are now about to recess officially until nine thirty to-morrow morning. But after a short recess period the Tribunal will be back in this room for a conference with counsel concerning matters calculated to expedite the trial of this case and we shall be disappointed if we do not have more members of counsel for the defense present than are at this time in the room. And if you can communicate with your brethren gentlemen and ask them to come in it will be very much appreciate. To the administrative staff we should like to say that it will perhaps help us if we might have the benefit of the translation and the sound service. It is not for our purpose that this proceedings shall appear in an official transcript. This will be a purely informal session, but it might become advisable to have some record, whereby we may be able to refresh our recollections as to occurrences, and certainly it will be helpful to have the benefit of the language translation. After about 15 or 20 minutes we shall

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reconvene.

(No more on the record)

We shall now recess until 0930 tomorrow morning.

OFFICIAL TRANSCRIPT of the American Military
Tribunal NO. VI in the matter of the United States of
America against CARL KRAUCH et al., defendant,
sitting at Nurnberg, Germany, on 14 October, 1947
0930, Justice SHAKE presiding.

THE MARSHAL: The Honorable, the Judges of Military Tribunal VI.

Military Tribunal VI is now in session. God save the United States
of America and this Honorable Tribunal.

There will be order in the court.

THE PRESIDENT: Mr. Marshal are all the defendants present?

THE MARSHAL: May it please Your Honor, all of the defendants are
present with the exception of Wurster and Hoerlein who are absent due
to illness.

THE PRESIDENT: Before we resume the cross-examination of the witness
on the stand, the Tribunal would like to make a statement on the record
directed to counsel.

On yesterday morning we spend some considerable time seeking to ascer-
tain the desires of counsel for the defense with respect to the cross
examination of a large number of witnesses whose affidavits have been
introduced in evidence by the prosecution.

The Tribunal directs me to say that it wishes be definitely and
clearly understood that there was and is no disposition on its part to
deprive any defendant of the right of cross examining any witness pro-
duced or which should be produced by the prosecution. Our only purpose
was in the interests of time and orderly procedure, to obviate the neces-
sity of bringing a witness on this stand and then finding ourselves con-
fronted with the situation that it was not desired to cross-examine the
witness.

We felt and we do feel that when counsel for the defense understand,
and have concluded, that they do not desire to cross-examine a witness,
that their position as members of the Bar and attorneys of this Tribunal
imposes upon them the obligation of stating us frankly so that we may
arrange our trial schedule accordingly. I repeat that it is not our
disposition to deprive any defendant of the privilege of cross-examining

any witness that he feels should be cross-examined.

On behalf of the Tribunal I now wish to ask counsel for the defense if they have reached any conclusion with reference to the witnesses whose names were called by the prosecution at yesterday morning's session, relative to whether or not they desire to cross-examine those witnesses. You have now had 24 hours to determine that matter. I may say in that connection that I am advised that some Tribunal have adopted a rule of procedure that requires the defense to announce immediately after the affidavit has been read in evidence, as to whether or not cross examination is desired. We have not seen fit to apply any such harsh rule, but we do feel that we are entitled to be advised as to the desires of the defense with reference to the cross-examination of those witnesses.

We shall be glad to hear any member of the staff of counsel of the defense who desires to speak on the subject.

DR. LIX for MR. SCHNEIDER:

I believe that the situation is already settled, but I wanted to inquire about something. I asked Mr. Sprecher yesterday afternoon if the witness Ruther might be examined briefly.

THE PRESIDENT: It is not necessary to ask counsel for the prosecution with reference to the cross-examination of any witness who has testified here. The Tribunal will accord that right. All that we desire to know is whether or not you have reached a conclusion in your own minds with respect to who you desire to cross-examine. We feel that we are entitled to that information.

DR. BOETTCHER: Your Honor, before the beginning of the session I gave Dr. Sprecher a final list of the affiants who are to be cross-examined according to the information which I received from all the defense counsel.

This list is now complete.

THE PRESIDENT: Mr. Sprecher, have you any observations to offer?

MR. SPRECHER: Mr. President, and Honorable Members of this Tribunal, Dr. von Rospatt and Dr. Boettcher, just before the session, handed me another list of affiants concerning whom some of the defense counsel de-

sire cross-examination, and that list contains five names which were not on the list of yesterday, and may I read them to you?

THE PRESIDENT: Perhaps it would be more orderly for you now to give to the Tribunal the list of witnesses, if you can, with respect to whom you understand counsel for the defense have waived the cross-examination.

At the conclusion of the reading of that list into the record, the Tribunal will then ask counsel for the defense to speak if that is contrary to their understanding, and as to those witnesses where there is no controversy, the Tribunal will make an order that cross-examination is dispensed with.

Are you in a position to give us that list for the record?

MR. SPRECHER: Yes.

THE PRESIDENT: You may read the names of the witnesses with respect to whom you understand, according to the information you received, counsel for the defense do not desire to cross-examine.

We ask counsel for the defense to listen to that list, because we are going to enter an order for the waiver of the cross-examination as to all with respect to whom no question is raised at this time.

MR. SPRECHER: The amended list on which the defense waives cross-examination is as follows: Eichwede, Engel, Hartmann, Heilbrunn, Henze, Mair, Palm, von Schroeder, Schacht and Lingg.

THE PRESIDENT: Is that the complete list as you understand it, Mr. Sprecher?

MR. SPRECHER: Yes, your Honor.

THE PRESIDENT: Now, gentlemen of the defense, please bear in mind what we have said before. This is not a matter of putting any pressure on intimidation upon any counsel representing any defendant of this case. If in the list, as it has been read by counsel for the prosecution, you find the name of a witness that you desire to cross-examine - please indicate it at this time, and that name will be stricken from this list, but your silence will be construed as a consent that the cross examination of these witnesses may be dispensed with.

DR. BOETTCHER: After the repeated requests which I have made to the defense counsel, this is the final list.

THE PRESIDENT: Thank you, Dr. Boettcher. We appreciate your efforts to help reach an understanding about this matter, but again the Tribunal will repeat that if this is not the understanding of counsel for the defendants, now is the time to speak.

It appearing to the Tribunal that counsel for the defense have no objections to the entry of an order dispensing with the cross-examination of the witness, enumerated by the prosecution, the Tribunal now advises the prosecution that it will not be necessary to produce those witnesses for cross-examination.

Are there any other announcements?

MR. SPRECHER: I thought that I might only mention a rather rough plan for today's operation.

After the conclusion of the examination, and re-direct examination of the witness Frank-Fahle, we thought we would call the witness Hoffmann. He was announced in the usual way through the Secretary General for appearance on yesterday, or shortly thereafter we will either produce the witness Brossler, who was previously announced and deferred, or else go on with some of the documents.

THE PRESIDENT: Very well.

If there are no further announcements, the defense may continue with the cross-examination of the witness in the box.

CROSS EXAMINATION OF

WITNESS FRANK FAHLE-(continued)

BY DR. Von Keller, counsel for the defendant von Schnitzler:

Q. Witness, today I come to a new subject, that is the commercial committee, Kaufmannischer Ausschuss. You deal with this subject in the affidavit, NI-5169 that is Exhibit 360, in the English Document Book 13, page 82; the same document book in the German, page 142.

Was the emphasis of the commercial committee on purchases or on sales?

A: If you put that question to me, certainly with the sales.

Q: From what time on did purchases play a role in the commercial committee?

A: During the war that became obvious by Mr. Weiss' appointment to the commercial committee.

Q Thank you; that will do. Did the Commercial Committee hold the great financial direction of I. G. Farben in its hands?

A I believe I can put several questions together at this point. Was it concerned with credits, increase of capital, setting up of the balance sheets, the distribution of annual profits, etc?

A No. I should merely like to mention that in one case the commercial committee did concern itself with work concerning credit. That was at the end of the war. The reason for that was not that the Commercial Committee was interested in financial questions, but that we the people from the finance department had to have the cooperation of the Farben Sales Combine to be able to establish credits through a dye stuffs stock in Switzerland, and for that reason this credit was discussed in the commercial committee for simplicity's sake and especially in view of the request by the Central Finance Administration who had asked us to establish such dye stuffs stock.

Q But on principle, the commercial committee had nothing to do with such questions?

A No.

Q Then it is correct if I say that the Commercial Committee was an organization which was to synchronize the activity of the various sales combines?

A Yes, it was to coordinate it.

Q And if I may ask, was it by consultation or by authoritative decision?

A It was more by way of advice.

Q Was the autonomy of the sales combine undermined by the commercial committee, or was the autonomy of this sales combine preserved?

A The autonomy of the sales combine was retained.

Q Was it the duty of the chairman of the commercial committee, the defendant von Schnitzler, to mediate among the various opinions which could arise among the sales combines?

A Yes.

Q Do you have any reason to believe any evidence that Dr. von Schnitzler in this work represented authority?

A No, I didn't gain that impression.

Q Do you have any reason to believe that he tried to force his opinion on other people?

A No.

Q Now if I speak of the defendant von Schnitzler briefly, from what branch of I. G. Farben did he come? I should like to have you specify, whether he came, from the chemical or the metallurgical, or dye stuffs field.

A From the dye stuffs field.

Q I see. Is it correct if I say that when the commercial committee was created, the International dye stuffs business had such a relative extent that it seemed justified to appoint Dr. von Schnitzler Chairman of the commercial committee?

A That is correct.

Q Now I come to a subject which was mentioned in passing in your affidavit, and which Mr. Sprecher mentioned in his direct examination yesterday. It is the New Order. I should like to ask you to supplement your statements of yesterday by telling me whether you know who initiated the discussion of the New Order in the Commercial Committee.

A The instigation for this New Order, - so-called New Order, - that is the request which was directed to I. G. to establish a New Order, - originated from the

Reich Ministry of Economics, a Ministerial Dirigent, whose name I have forgotten at the moment, To what extent he was asked to do that, from a higher authority, I cannot tell you.

Q Would the I. G. have been able to evade such a request at all?

A It had to submit some plan.

Q Were similar requests made to other firms too?

A I assume so.

Q Do you have any reason to believe that the suggestion for this general ruling or this general instruction, came from I. G.?

A I have no indication for that.

Q Now I should like to discuss the mobilization question briefly, which you mentioned in this affidavit we had just been discussing as well as in the affidavit NI 7621, Exhibit 250, Document Book 9, English page 68, German page 88. I should like to be as brief as possible. First of all, as to the meaning of the entire mobilization question. Do you have any reason to believe that any member of the commercial committee had any knowledge of any kind of a proposed war of aggression?

A No.

Q Then if the mobilization question was discussed in the commercial committee, the subject of the discussion was only a possible case?

A Yes.

Q Is it true that this subject was discussed in the commercial committee only on instructions from above? I mean the Military authority and the Ministry of Economics?

A Yes. the origin of the mobilization question stems from the Ministry of Economics, and later we established contact with the so-called staff of General Thomas-- as far

as I remember, when we completed the list of requirements for the commercial machinery.

Q Then it always was on request from the authorities?

A Yes.

Q Unfortunately I must ask you again, would the I. G. have been able to evade this request?

A No, and above all, it lay in the interest of Farben to have clarity about the question, what members of the commercial machinery would be used in case of mobilization, who could be retained in the business, and who could not be retained.

Q Then if I understand you correctly, the sense of this discussion was more to preserve the commercial machinery in spite of the request of the authorities?

A Yes.

Q Do you know that other firms too, on the basis of similar instructions had to discuss this mobilization subject?

A Yes.

Q In the commercial committee, was the mobilization question discussed from the technical point of view of production, or from the point of view of personnel mobilization?

A The emphasis was put upon personnel matters. I myself took down on record in the commercial committee, what questions of stocks and stores were touched upon; from the way I formulated it, one can see that the question of stores was only slightly touched upon in the commercial committee. The question to what extent the sales combines could stock pile in Germany, or in the other countries, was a question with which each sales combine had to deal itself.

Q Am I to understand your answer to mean that here too

the preservation of the business was at issue?

A Of course.

Q Now I do not intend ~~to argue, but were these requests~~
of the Wehrmacht inconvenient for Farben?

A That is a question that I cannot answer, because
I was not active enough in the sales business. I have no
insight into the extent of shipments to the army.

Q Do you believe that Farben attempted to hold back
personnel against the request of the authorities?

A I believe I have stated that already, Herr von
Keller.

Q Would you say that to the outside world, the mobilization
question was emphasized to a greater extent perhaps than
I. G. Farben's attention to it warranted it?

A The mobilization question was not put into the
foreground at all. I mean that now and again it was
touched upon in the Commercial Committee meetings.

Q I put this question to you in order to correct the
impression which may arise, if one merely sees excerpts
from the minutes, dealing with the mobilization question.
Is this impression arising from the excerpts not a little
distorted?

A If I have an affidavit in front of me, which is
only an excerpt treating the mob question, then of course
I can only see the mobilization question. However, if I
look through all of the records, then I can understand
that only now and again among other things, the "M"
question was discussed.

Q. Thank you. In your affidavit you also deal with the Kissinger discussions. I believe that is on Page 11. Do you remember the contents of these discussions?

A. I have to admit unfortunately that in this meeting in which Herr von Schnitzler reported on Kissinger I wasn't present and therefore I only know about the Appendix which Herr von der Heyde drafted for the record of 1927 regarding the advertising appropriation. The contents are understandable to me, but I do not know to whom Dr. von Schnitzler and Kugler spoke. I assume it was a gentleman from military intelligence.

Q. Did you believe or did you have any evidence in your memory that in this case, too, it was the tendency of the men of I.G. Farben to separate the Wehrmacht tasks and the commercial tasks of I.G. Farben?

A. Yes, of course.

Q. Can you tell me in what field the Wehrmacht desired collaboration? Was it the military field or was it the commercial field?

A. May I answer your question briefly as follows: The requests or the desires of the Army only concerned themselves with the commercial side. That's to be understood.

Q. Then was the collaboration in the field of trade, politics, as every responsible businessman must presume, in his own interest and the inter-office business?

A. I believe we misunderstood each other. We were concerned with getting commercial news from abroad during the war and in this case OKW was interested to receive as much news of a commercial nature from abroad as possible.

Q. Did this news exceed the field of that news which a big firm collects for itself?

A. I think now, but it is very difficult for me to

answer that question.

Q. In the minutes on Page 11 you will see it is stated that the correspondence is to be conducted by Dr. von Schnitzler to be carried on to the commercial committee. To your knowledge did this correspondence ever come about?

A. No.

Q. Now, generally, witness, I should like to ask you a few questions concerning the defendant, Dr. Kugler. This is Document NI- 5169, Document Book XIII, Exhibit 360. In the German book, Page 142 and the English book Page 82. On Page 7 of this affidavit the defendant, Dr. Kugler, is called a member of the commercial committee from 1940 to 1945. Was this the case in 1940, as far as you can recall?

A. He may be listed so according to the records. I believe it is correct.

Q. Did you know that Dr. Kugler, insofar as he attended meetings of the commercial committee, from this time on did so as a guest when certain subjects were to be discussed?

A. Yes.

Q. Were these subjects concerning his immediate sphere of work?

A. Yes.

Q. Was Dr. Kugler from the beginning a member of the Southeastern Europe Committee?

A. As far as I know not. At some later date he became a member of the Southeastern Committee.

Q. Could it be in June 1939?

A. It may be.

Q. My last question, on Page 5 you listed the Defendant Kugler as a member of Beirat, Advisory Council and as a member of the Prüfungsstelle Chemie. Are you aware this concern was founded in 1944?

A. Yes.

Q. Was it the duty of this Advisory Council to advise the Pruefungsstelle Chemie on export questions?

A. I believe so.

Q. Is it true that this Advisory council, as a result of military events did never exist?

A. I believe that is possible. One can see from the records that Dr. Kugler reported to this committee in 1944 about his appointment and then the dissolution of all organization in Germany began so rapidly and I can well imagine that these two committees never met.

DR. VON KELLER: Thank you. I have no further questions.

THE PRESIDENT: Does the defense desire to cross-examine the witness further? If not so appearing, has the Prosecution any redirect examination?

REDIRECT EXAMINATION

BY MR. STRECHER:

Q. You are a lawyer yourself, witness?

A. I have studied for a doctor's degree, but I have no admission to the bar.

Q. Would you prefer to have this examination conducted in English or German?

A. If the Court agrees.

THE PRESIDENT: It will be agreeable to the court.

Q. Apart from the commercial members of the Vorstand whom you ment in the meetings of the commercial committee, did you get to know most of the technical members of the Vorstand?

A. I met the technical members of the Vorstand before outside of the meetings.

Q. Did you have any lawyers working under you in Zefi, that is, the Central Finance Administration?

A. Yes.

Q. And were some of the Assistant Defense Counsel here among those lawyers I mean absolutely no reproach, I merely wish to indicate the facts to the record.

A. Yes.

Q. And some of the lawyers who questioned you yesterday had worked with you concerning various questions which came up in the central finance administration, is that right?

A. Of course.

Q. Did you discuss before you took the stand yesterday with some of these lawyers the testimony you would give today on Cross-Examination.

A. I discussed general questions about the I.G. trial with some of them, but not with everybody who asked me on cross-examination.

Q. That is perfectly understandable. Now, during absences of Dr. Ilgner from N.W. - 7 because of his numerous journeys, one place and another, you had some experience with respect to getting orders from him before he left concerning your duties as well as reporting to him concerning what had gone on when he returned. Is that not true?

A. It is true, Mr. Sprecher. Besides we had to attend to in the Berlin office business of a more current nature. Therefore, any directions given by Dr. Ilgner could have concerned only the specific letter. During his very extended absence so many important matters came up which were decided immediately by Dr. Krieger or by myself.

Q. Well, I don't think I believe that the - - - -
Witness, weren't there such things in the NW-7 as the so called mail conference?

A. Yes.

Q. And at these conferences is it not true that either

Dr. Ilgner, or, in his absence, Dr. Krueger and sometimes yourself, acted as chairman of the meeting when the general conduct of NW.7 and its various branches was discussed?

A. Yes.

Q. And when Dr. Ilgner returned from a trip he assumed chairmanship of those meetings and were not reports made to him about some of the main developments during his absence. Is that true or not true?

A. I could say that this was not possible according to the time. Dr. Ilgner requested that he received the minutes of such meetings and the copies of all important letters. That is the way in which he was informed.

Q. That is to say, when he came back he called you in and not only asked you for the minutes of the meetings but asked for the correspondence?

A. No, he didn't ask for it but he had copies on his desk whether he was there or not.

Q. Now, did Dr. Bosch engage in some very effective window dressing, in your opinion?

A. No, he was so outspoken that I personally have asked him very often to be more careful.

Q. Did you know that Dr. Bosch did engage in discussion of high matters of state policy with Goering, with Keppler, who was Hitler's economic adviser, and others?

A. This is not known to me.

Q. That evidence did Bosch give of this, as you state, express opposition to the Nazi regime in such a way that it would be known to anybody in Germany outside of a small circle in which you may have worked in I.G. Farben itself?

A. The Geheimrat Bosch was a member of very well known scientific societies. In case I'm right, he was also a member of the very well known Kaiser Wilhelm Gesellschaft, the last president of which has been Professor Planck who died a couple of days ago. And I believe that everybody who has been a member of this society has known Mr. Bosch's political opinion. He was also a member of a scientific society which met in Munich and I remember that I heard about this very anti-Hitler and anti-Nazi behavior in Munich from sources which were, in no way, connected with the I.G. and only his age and his predominant position had saved him, so I was told, from being arrested.

Q. Of course, Dr. Bosch was already chairman of the I.G. Vorstand in 1933 when the Nazis came to power and he continued in that position until 1935 when he was

A. (Interruptin) Pardon me, Mr. Sprecher, he became successor of Geheimrat Duisberg who died after the Nazis came to power. He was the head of the I.G., in case I am correct, when the Nazis came to power.

Q. The Chairman of the Vorstand?

A. The Chairman of the Vorstand.

Q. That's what I said. I'm sorry if I didn't express myself too

clearly. Now, in 1935, he became Chairman of the Impshrat and continued in that position until he died in 1940. Is that correct?

A. Yes.

Q. Now, did you ever hear of Geheimrat Bosch resigning from any position - and possibly he did resign. I just want to know if you know. Did you ever hear of him resigning from any important position which he did hold, officially or unofficially, under the Nazi regime?

A. This I don't know.

Q. Did you know that the industrialist Fritz Thyssen resigned from a number of positions and wrote letters to Goering after the persecution of the Jews and the Catholic Church became obvious?

A. But, of course, the question of Thyssen is absolutely different from the case of Bosch. Thyssen was an ardent believer in Hitler who found out later on that he was entirely wrong, while Bosch always has been consistent.

Q. And Thyssen, until he left the country at the outbreak of war, didn't lose his head because of the police state either, did he?

A. Thyssen?

Q. Yes, Thyssen. He stayed in Germany until he left of his own volition?

A. This I don't know. I believe he left Germany on his own wish.

Q. Now, when you were discussing, prior to the trial, with me this question of window dressing, you could only think of one instance after several days' thought? Is that right?

A. Yes, that is absolutely right.

Q. Now, tell us about that one instance of window dressing in this limited connection. Was it regarded, at that time, as window dressing by the members of the K.A. who were present in the meeting when the resolution was adopted that, in the future, no representatives of Farben should go abroad unless they were members of the German Labor Front, Dr. Ley's organization, or were positive believers in the

Nazi Socialist State? That is correct, isn't it? Now, make your answer.

A. My answer is as follows.: I believe I stated in my affidavit that this resolution was passed in connection with the discussion in the meeting about the permanent difficulties the I.G. officials in the commercial section had with the foreign organization of the Party and we agreed that we had to make some concessions in this way and we deemed it advisable that one man of the Vorstand, who might be able to talk with the members of the foreign organization, handle the matter for the whole commercial part of the I.G. so far as general questions were concerned.

Q. Well, now, this question was discussed as a matter of window dressing. That is what you mean to say, do you, at the time?

A. Yes, I believe so.

Q. And in this meeting, it was said, according to your testimony, as I understand it, "it's necessary for I.G. to do a little window dressing now with respect to the Nazi regime?"

A. It was decided to have one man who could talk to state leaders and talk with the foreign organization, by showing, there you see what we concluded in the meeting.

Q. Now, we've covered the points about the help that this action would give to Reibel. I'm only asking you if the question of window dressing was clearly discussed in the circle of the commercial committee, at that time, as a matter of window dressing? Was it or wasn't it?

A. Mr. Sprecher, I don't know whether it was necessary to emphasize towards the members of the Commercial Committee that the way I formulated the protocol was window dressing or not. I believe the members of the K.A. were clever enough to make this distinction.

Q. Well, the question is, did they, in a way you observed with one of your senses at that time?

A. Mr. Sprecher, I couldn't watch their faces because I made the protocol after the meeting and the protocol was mailed to the members.

Q. It was mailed, in fact, to more than fifty people in I.G. Farben, not only to the members of the Commercial Committee?

A. Yes.

Q. And after the rest of these people saw what the minutes were, what the resolution was, do you think there was any reason why the other fifty people, who were not present in the meeting, could have thought this was window dressing?

A. Mr. Sprecher, I hoped that the ardent Nazis among the smaller staff, who were watching these protocols in order to report to their local Party authorities, were impressed that this was not a window dressing.

Q. Now, were there some members of the Commercial Committee present, so far as you know, who had been Nazis from before the time of 1933, at the time when the famous window dressing was done?

A. I don't know that anybody of the Vorstand was a member before 1933.

Q. Well, we have collateral.....

A. (Interrupting) But I don't know it.

Q. I understand.

Do you remember who proposed the resolution?

A. I don't remember that.

Q. Now, let's come to another topic.

The question of propaganda. Did I understand you correctly to say yesterday that, in connection with the English meaning of the word propaganda which has a political tone in many cases in any event, the propaganda commission did not engage in any such propaganda, or were you referring to I.G. agencies generally?

A. I was asked about the propaganda commission.

Q. Now, did the propaganda commission have anything to do with this specific event? And I ask you to sharpen your memory concerning this matter? Before Munich, and before the Sudetenland part of Czechoslovakia had been incorporated into Germany, at the end of 1938,

did the propaganda commission have anything whatsoever to do with sponsoring the so-called pro-German newspaper in Sudeten Germany?

A. I believe... I don't know whether the propaganda commission had done it, but it was done. In other words, the I.G. agencies in Czechoslovakia favored the German newspapers in Sudetenland, before Sudetenland was occupied by the German army.

Q. You had something to do with that yourself because you furnished the credits.

A. I put it in the minutes.

Q. Well, you got it in the minutes. You got it from your actual living from day to day, didn't you, at the time?

A. I had no orders to give to the foreign sales organization in Czechoslovakia. This was the duty of the sales organization.

Q. Yes, but you checked it in a meeting in which you were chairman in Berlin, now, didn't you?

A. I have not the minutes before me.

Q. I didn't ask if you had the minutes before you. There was no question like that asked you. I asked you if you were not the chairman of a meeting in Berlin, before Munich, in which this very question was discussed in extenso?

A. It was very possible that, at this famous meeting with Mr. Seeborn in Berlin, it was.

Q. And is that one of the unusual meetings that the prosecution manages to find somehow?

A. I have not much recollection of the meeting, Mr. Sprecher, because the minutes ... I have not seen the minutes.

Q. Well, you were chairman of the meeting.

A. But I can only tell you what I know about it.

Q. Now, yesterday, you said a number of things in which you went into your own conclusions which were matters which I had not gone into in my direct examination but they did relate to some of the matters which were in your affidavits. Now, let me ask you a few

questions along some of those lines.

THE PRESIDENT: Just before you do that. I deem it proper to remind you, Mr. Sprecher, that this is your witness, that you are not cross examining a witness, but he is your witness in chief.

MR. SPEECHER: Your Honor, it was my purpose in my earlier questions which I asked this morning to indicate the basis of the relationship between this defendant, the defendants in the dock, and even some of defense counsel and, since many of the questions yesterday during cross examination were exceedingly leading in calling for "yes" and "no" answers in respect to conclusions, it would seem to me proper to follow a course to arrive at my ends rather shortly rather than by laying a large amount of cross examination. Now, that is my first point.

THE PRESIDENT: Well, in that case, of course, we need not remind you that the field of leading questions is much broader in cross examination than in chief. Leading questions are entirely permissible in cross examination. The Chair's only purpose in reminding you is that this Tribunal has concerned itself very much in trying to get the trial of this case into orderly channels and, insofar as you will observe the rules of examination yourself you'll help the Tribunal in maintaining its consistent policy, and we suggest, not to limit your field of inquiry, but insofar as you can, refrain from cross examining the witness. That was our only purpose.

MR. SPEECHER: Yes, sir.

I have just one more thing. I think you have touched upon a subject which is an old subject. You mentioned the question of my witness, and for many purposes that is true, but I do not think we could conduct inquiries in Germany with adverse conditions if we did not have certain privileges with so-called impeachment, where the witness, in cross examination by defense counsel, is taken off the beaten path of direct examination.

THE PRESIDENT: Well, of course, neither party owns a witness.

What I mean by that, when I say your witness, is your witness in the sense that you examined him directly and you are not cross examining a witness produced by the other side.

MR. SPEECHER: Thank you very much.

BY MR. SPRECHER:

Q. Now, yesterday, you testified, as I recall, that, from the nature of military service and the Mob-Fragen, generally speaking, it never occurred to you, and I think this morning you said so far as you know, it never occurred to anybody else in Farben that these questions were related to aggressive acts. May I ask you, during what period that applied? Did that apply during the whole period from the time when there were Mob-Fragen (mobilization questions) up until the outbreak of war with Poland on the 1st of September, 1939?

A. Mr. Sprecher, this is one of the most difficult questions. I mean, the question whether Hitler would be so foolish to start a war or not has been a personal opinion of everybody in Germany, and I know that the prevailing opinion, even amongst the more clever people in Germany, was to be afraid of an attack by other nations. In other words they were afraid that Hitler would, in his very risky way of over running Austria, by overrunning Sudetenland, he entangled in a war; that he would start an aggressive war against the whole world. I believe that was not the prevailing opinion, but that is very difficult to answer. I mean, I think my personal opinion is not the opinion of everybody in Germany.

Q. Now, I don't want to cross examine you because of the direction of the court, but I do want to ask you to try to refresh your recollection about a number of things, and I will start out about the conference which apparently you remembered very well since you brought it up, when Mr. Seeborn came up to Berlin and was present at a conference with you, quite some time before Munich. Quite some time before Munich. Remember that.

A. Surely.

Q. Now, do you remember, at that time, if you talked about the possibility of what I. G. Farben was going to do in case the Sudetenland was annexed and even in case all of Czechoslovakia was overrun? Do you remember that?

A. I don't remember that, but it is very possible that I discussed it. I mean, as I told you, Mr. Sprecher, I have the minutes of this meeting not before me and this meeting took place in summer, 1938, if I'm right, and in case you're interested I'll tell you how it happened. Mr. Seeborn had been the head of the sales organization of Reichenberg in Czechoslovakia and he came to Berlin, not because he was asked for having a meeting about the Sudeten question but because he had some financial matters, I believe some depreciation business, to discuss with the central financial department. The papers, at that time, were full about Czechoslovakia. This was the beginning of Goebbels's or Hitler's propaganda that the so-called Sudetendeutschen were persecuted by the Czechs, and as we heard in Berlin that Seeborn was in our house, I asked him to come into a board room and I asked a number of other people to be present and I asked Mr. Seeborn to tell us what was going on in Czechoslovakia because we were interested to hear from him, and we heard from him that more or less nothing was going on, that everything was peaceful.

Q. How long did it take you to call together this rather spontaneous meeting?

A. I mean, it is rather easy. I mean, when Mr. Seeborn comes to Berlin to discuss some financial matters and I ask him to come in, one or two hours, in Board Room 14, and I ask my secretary to telephone to WFO to have somebody present and there is always somebody who is able to be there in half an hour.

Q. The defendant Kugler was there, was he not?

A. I don't believe so.

Q. All right.

A. I don't believe so.

Q. Now, you are sure that was rather a spontaneous meeting and that you did not discuss proposed actions?

A. I mean, that according to my recollection, it happened that way.

Q. Well, but answer the question, please. Do you recall whether any proposed action was taken that was to be carried out -- that was to be the official policy of I.G.? Do you remember that?

A. I don't remember that. I mean, you mentioned, Mr. Sprecher, that in this meeting the question to favor German newspapers in Czechoslovakia was mentioned. I don't remember it, but in case, as you say, it must have been the case because you have it from the minutes, and I would like now to check the minutes of the K.A. whether the decision that we should give also some advertising matters to the German papers in Czechoslovakia was not already decided in the Commercial Committee.

Q. Please don't change the subject, Mr. Witness. If you want to do something like that at the request of defense counsel or at my request, you may do so, but it isn't necessary to go into a side avenue here.

I want to ask you just one more question. At this meeting, didn't you also talk about employing Sudeten Germans in I.G. so that you could later be ready to employ these Sudeten Germans in the rest of Czechoslovakia? That is, that part of Czechoslovakia? That is, that part of Czechoslovakia which had nothing to do with the Sudetenland?

A. I don't remember that.

Q. The document in question, Your Honors, is already in evidence. It is Exhibit 833. It is Document JMI 6221. I won't trouble you long with this document. Only to ask you one or two things. Do you know where Ilgner was at the time of that conference which was on the 23rd of May, 1938?

A. No, I don't know.

Q. You notice that Dr. Eugler was among the persons present?

A. No, that was not Dr. Eugler but Dr. Kuegler.

Q. I beg your pardon. The difference is in the umlaut?

A. Yes.

Q. Now, would you turn over to page 4 of the original German where there is a heading called "trainees"?

A. You mean the question of Nachwuchs?

Q. I beg your pardon. The question of trainees. It is just after the proposed action with respect to removing the non-Aryan lawyer, Dr. Fanta, and replacing him by a suitable German lawyer. Just after that, Dr. Frank Fahle, comes the heading, "Trainees". I should say it is the third paragraph from the bottom of the original German. You see that?

A. Yes.

Q. So there was some discussion in your presence about this eventuality of taking over all of Czechoslovakia at that time?

A. No, this is a conclusion you make from this.

Q. Well, you give me your conclusion about that. I think the words are very clear.

A. I don't know whether the court has this in English.

Q. They do. It's in evidence as Exhibit 833. It's in Document Book 46 at page 26.

THE PRESIDENT: Just a moment. Let's hear what defense counsel has to say.

DR. VON REIER (Defense Counsel for defendant von Schnitzler): I merely wanted to point out to the Tribunal that, as far as I know, this cross examination and direct examination refer to questions dealt with in affidavits of the witness. I believe that the subject under discussion at the moment goes beyond the affidavits. For this reason, I should like to object to the manner in which the witness is being examined.

THE PRESIDENT: The manner in which the witness is being examined is such to warrant an objection. However, in order to keep the record clear we may say that we have indicated heretofore that when the prosecution produces a witness, who has made an affidavit, for examination from the witness stand, the prosecution is not thereby

limited to the field of the affidavit. To hold otherwise would simply impose upon the prosecution the obligation of producing a witness twice. They would bring him once for cross examination and then, if there was some other oral evidence that they wanted to produce by the witness, they would have to call him again. It would probably shorten the procedure to permit the prosecution to use the witness for any legitimate purpose while he is on the witness stand and, on that view of the matter, the immediate objection made by the counsel for the defense would have to be over-ruled. But we deem it proper at this time to remind counsel for the prosecution that there are certain well defined rules with reference to examination and cross examination of a witness. Counsel has gone pretty far afield in the conduct of this redirect examination, we'll call it. Now, this Tribunal has concerned itself very much in recent days in trying to get this examination of witnesses into the proper channels and in line with well recognized rules.

I may say, frankly, that it was said by Counsel for the Defense that they suffered from some embarrassment because of their unfamiliarity with our methods of procedure. We think that Counsel for the Prosecution being more familiar with those rules ought to be able to keep a little nearer in bounds on the direct examination, and we are going to admonish Counsel for the Prosecution not to cross examine the witness.

The witness, I may say, has responded, has answered your questions, and whether it was or was not the answer that you expected, certainly doesn't justify leading the witness in suggesting answers and arguing with the witness.

With those observations the Tribunal will overrule the objection.

MR. SPRECHER: I will rephrase my question with your permission.

THE PRESIDENT: Very well.

BY MR. SPRECHER:

Q Well, I will withdraw the question concerning the trainees unless you have a desire to indicate that entry apparently doesn't mean what plain words say to me.

A Mr. Sprecher, I would like to answer your question.

Q Please go ahead.

A And to be able to answer it, I would like to have the English translation before me of this document. I would like to say that I said in German, "It seemed expedient to begin immediately" -- and now it reads here, "with the greatest possible speed", which is a little accentuated translation, I should say -- "to employ Sudeten-Germans for the purpose of training them with I. G. in order to build up reserves to be employed later in Czechoslovakia."

In case -- I will translate it in English. I would say, "It seems practical immediately to train Germans of the Sudetenland for the I. G. in the interest of having later on trained younger people in Czechoslovakia."

I don't remember--

Q Just a minute. Since you are translating, if I may ask you, you

forgot about the "Fuer Spaetere Verwendung", did you not?

A For later employment, yes, for later -- I am sorry. To be employed later or for later employment. But I would like to remind you, Mr. Sprecher, that at that time for us in Germany Sudetenland was part of Czechoslovakia. I, of course, can't remember what has been on my mind exactly, but I can only put myself in the position back in 1938, and you don't mind that I have to explain it a little more in detail. Austria had been occupied and had become part of Germany, I believe, just two or three months ago. I believe that it had been -- I mean I don't like to talk about the way how it has been done, but it was -- it had become part of Germany, and I believe all the Powers also the Allied Powers had agreed to this political change. The I. G. had in Austria a lot of affiliations, sales agencies, and so on. When Hitler made this crude attack, we were severely attacked by the Nazi regime that more or less all of our agencies still employed Jewish people, that the members of the boards of the different companies were Jewish, and when the development in Czechoslovakia started, everybody could see that Hitler planned to get the German part of Czechoslovakia back. As later on the facts show, he got it back, not in a nice way, I mean the way he started it with an absolutely Nazi method, but it was done in a way which followed, whether rightly or wrongly, with the approval of England, the United States, France and God knows all the other nations.

We in the I. G. had also some imagination and read in the papers the atrocity against Sudeten-Germans. I asked Mr. Seeborn, "What is the truth about it?" He said: "There is nothing about it," and he laughed. But knowing that Hitler had -- I am sorry to say -- success in his foreign political actions without being stopped by anybody -- when he occupied the Rhineland, he was not stopped by France; when he occupied Austria, he was not stopped by anybody -- that he might succeed without causing a war by regaining the German part of Czechoslovakia.

The point of us in the I. G. was to be in case such things happened, a little more careful, but in the case of Austria, in other words, when Hitler succeeded, which he did, by getting part of Czechoslovakia in a peaceful way, not to find the I. G. again having done nothing. This resulted that we asked our representatives in Czechoslovakia, to give some of our advertising to Germans -- Sudeten-German newspapers, not to continue to employ the non-Aryan or Jewish lawyer, Dr. Fanter, which was -- I have to say it -- also some window-dressing, because in fact Dr. Fanter function as our very good lawyer, continued to function, but for window dressing, we employed some Sudeten-German lawyers. In the same way we had to see that we had not too many National Czechs in our employ. And out of this whole complex, this reading -- this whole compilation has to be understood.

Q Well, you do notice, now that your recollection is refreshed, that there comes in the minutes always a discussion and then proposed action, so the meeting, if I am correct -- and I am only asking you -- the meeting was a meeting which did result in a determination of policy, is that correct?

A Mr. Sprecher, I had no time during this cross examination to reread the full eight pages. I was only able to glance over one page.

Q Please just check the headings.

A In case you would give me the time, I will read it over.

Q If you will, please.

THE PRESIDENT: Just a minute. Just a minute. Remember the rule we adopted here yesterday.

DR. GIERLICH: Dr. Gierlich.

Mr. President, in connection with the technical matters of cross examination, we have repeatedly asked for instruction. I have always been of the opinion up to now that redirect examination by the Prosecution is strictly limited to the subject covered by the cross examination of the Defense. For a quarter of an hour now matters have been discussed which I find very interesting and which I should also like to discuss,

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but I do not believe that the procedure for this has been proper and that the formal prerequisites for such a redirect examination have been fulfilled. Therefore, I must object to the question as asked by the Prosecution.

THE PRESIDENT: Now, if you recall the state of the record, it is this: Counsel for the Prosecution asked the witness a question, subsequently withdrew the question, and then the witness said that he would like to make an explanation, and Counsel for the Prosecution said that he might make the explanation. He has made the explanation, and it was invited by the Prosecution. The witness was justified in doing so. The Tribunal permitted him to make his explanation, and certainly there is no occasion now to cross examine him with reference to an explanation that he made because of an invitation to make it. Now there is no occasion for any further interrogation along that line, and I think Counsel for the Prosecution understands the simple general rules of direct examination and he should now, if he desires, to interrogate the witness further, ask another question. Now that is the situation as the record stands.

Ask another question, Mr. Sprecher.

BY MR. SPRECHER:

Q I only wanted you to look at the minutes long enough so that you could refresh your recollection and give some further testimony. May I suggest that you just check the headings which appear very plainly and which are underlined throughout the minutes of this meeting just so that you can see what was the topic of action.

THE PRESIDENT: Have you done that, Mr. Witness?

THE WITNESS: I glanced over the minutes, your Honor, and —

THE PRESIDENT: There is nothing before you. Now we asked that just to ascertain if you had done what Counsel requested. You say you have.

Now ask your question.

BY MR. SPRECHER:

Q. Yes, My question is the prior question if it is not true that at this meeting some decisions were taken which were in the nature of official policy?

THE PRESIDENT: Now the Tribunal is going to sustain its own objection to that question. That is as leading as it can be, Mr. Sprecher. You asked him if it was not true about something. You can ask him what is true and let him answer. Then we can get along.

BY MR. SPRECHER:

Q. Will you tell us what was the purpose of the proposed action which is indicated by the titles in the minutes of this meeting where the employment of Czech Nationals and Jews is mentioned at a number of points?

A. Mr. Sprecher, in the minutes in the German version it reads "Vorschlag". This means not "proposed action" but "suggestion". In our Berlin organization we are not entitled to order any action. Therefore, it reads "Vorschlag", "Suggestion".

Q. Who was entitled to order the action?

A. Whoever had to deal with the different sales organizations in Czechoslovakia, the three sales combines. Therefore, those minutes went to the sales combines, I believe. I mean the only way I personally could order an action was to secure the foreign exchange receivers and to continue to protect them against depreciation.

Q. Witness, can you tell by your signature and the other signature at the end of the document -- what was the other signature?

A. "Diehlmann"

Q. Can you tell by that or anything else in the document approximately to whom those minutes were sent?

A. Yes, Mr. Sprecher. I went in cooperation with you through the minutes of the KA and, therefore, I remember that in the next KA which took place, I probably told the members of the KA that Mr. Seeborn had

in Berlin and that we had -- and that we had taken advantage of his presence to discuss with members of the staff of NW/7 -- because in the meantime also through the membership list; they are all members of my staff, you know -- to discuss the problems, and that I probably presented these minutes to the members of the KA.

MR. SPECHER: No further questions.

THE PRESIDENT: Will Counsel for the Defense determine during the intermission whether or not there is to be any further cross examination of the witness so that we may proceed promptly after our recess?

The Tribunal will now rise for its morning recess.

(A recess was taken)

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: Does the Defense desire to cross examine this witness further?

DR. BACHEN: Dr. Bachem for Dr. Ilgner.

RE-CROSS EXAMINATION

BY DR. BACHEN:

Q. Dr. Frank-Pahle, in the redirect examination by Mr. Sprecher, among other things, you also discussed the various extended absences of Dr. Ilgner from Berlin and from Germany, and in that connection the question of information of Dr. Ilgner was touched upon. First of all, I should like to find out from you the three long extended absences from Berlin. It is correct that in 1934 and '35 Dr. Ilgner was absent for almost one year in Eastern Asia?

A. Yes.

Q. Is it furthermore, correct that Dr. Ilgner in 1936 was absent almost for a half year in South America?

A. Yes.

Q. And is it also correct that Dr. Ilgner beginning with Summer or Autumn, 1938; until the middle of 1940 was absent from Berlin because of illness?

A. Yes.

Q. Dr. Frank-Fahle, you know Dr. Ilgner's organization from your own experience very well. Now, was it true that the deputy at the time, Dr. Ilgner's deputy, Dr. Krueger, was in charge of the organization during Dr. Ilgner's absence very independently without any question being asked or any directives being given to him?

A. Yes.

Q. Isn't it even true that after Dr. Ilgner's return from his long absence in the middle of 1940 one had the impression as though there was a double direction in this organization, Dr. Ilgner, and, too, Dr. Krueger?

A. Certainly. I even remember that Dr. Ilgner was not in agreement with a few measures that Dr. Krueger had taken.

Q. Wouldn't Dr. Ilgner's absences which we have just discussed now be so extended that it was not even possible for him to get instructions or to issue instructions about business administration during his absence?

A. I believe that I already expressed that to Mr. Sprecher.

Q. And is it, furthermore, correct, Dr. Frank-Fahle, that Dr. Ilgner practically could not inform himself of business matters during his absences since these were so extended that the records during that time of his absences were much too extensive?

A. I assume that to be so.

Q. Dr. Frank-Fahle, from your own knowledge, do you know that Dr. Ilgner even when he was present in Berlin very often received piles of documents about matters in the business which he couldn't even read for months on end?

A. That is absolutely so.

Q. So that one might well conclude that Dr. Ilgner, who was very active returned from such a trip with a lot of ideas that he wanted to pursue that he didn't even have the time to read those records which Mr. Sprecher mentioned a few minutes ago?

A. Yes. That is so.

DR. von KELLER: Dr. von Keller for the Defendant von Schnitzler.

RECROSS EXAMINATION

BY DR. von KELLER:

Q. Witness, when you called this meeting spontaneously, did you have any concrete documents for the political policy of the German Government in the future?

A. No, I merely cited the precedent of Austria to go on.

Q. Thank you. When you called this meeting, then you did so primarily because you wanted to inform yourself personally of events and to give the other gentlemen an opportunity to inform themselves of what Mr. Seebohm could tell them?

A. Yes.

Q. If you had any political convictions or assumptions at the time, were they founded only upon combinations or conclusions, or were these ideas founded upon definite instructions and plans from authorities?

A. They were founded only upon conclusions, Dr. von Keller.

Q. Thank you. I believe that is enough.

A. But also upon intelligence which I read in the German and foreign press especially the English and American press.

Q Thank you very much. You made a statement about this meeting in writing, and in it there is a paragraph which is entitled "Suggestions", isn't that correct?

A Yes.

Q This statement was turned over to the Commercial Committee?

A I remember that at the next meeting of the Commercial Committee I took it along with me; that is correct.

Q Did the commercial Committee take any action after they saw this paper?

A I cannot say at the moment; I would have to look into the records.

Q You cannot remember?

A The record was given to the gentlemen in the Commercial Committee. Whether they discussed it in detail, I do not remember.

Q But do you remember any steps that were taken by the Commercial Committee?

A I have already said that either before or after this meeting the Commercial Committee decided not to neglect the Sudeten-German press, but to support it.

Q But these are the only measures that you remember.

A That is a measure that I remember now, concretely.

Q Did Farben in its entirety--that is to say, the Vorstand - initiate any action as a result of this?

A I don't know.

DR. VON KELLER: I have no further questions.

BY DR. GIERLICH: (Counsel for the defendant Schnitz):

Q Dr. Frank-Fehle, do you remember when Mr. Thyssen left Germany?

A Will you please repeat your question?

Q Do you remember when Mr. Thyssen left Germany? The Prosecution just mentioned him.

A No.

Q If I put to you that it was at the time of the outbreak of war, do you then perhaps remember that that is correct?

A Yes.

MR. SPEECHER: I will stipulate that that is so.

WITNESS: I believe --

BY DR. GIERLICH:

Q Your answer is unnecessary, since the Prosecution admitted that that is so.

Do you know what caused Mr. Thyssen to leave Germany?

A I don't know whether I remember correctly. Didn't Thyssen send an appeal to the Fuehrer saying that the war was madness?

I don't know.

Q Is it correct that after the pact with the Soviet Union was concluded, and before the war broke out, Thyssen sent an open telegram to Adolf Hitler, accusing him of being a traitor to National Socialism because he concluded a pact with Bolshevism?

A Yes, that is correct; that was in connection with the Russian Pact.

Q Is it true that as a result he was called to appear before Goering and Hitler, and that he was told, without mincing words, what would happen to him? And he decided to flee?

A Yes, that is right.

Q Dr. Frank-Fahle, when the Prosecution asked you what action Geheimrat Bosch took which might make it clear to the General public that he was a sworn enemy of Nazism, you did not say very much. May I put a few things to you now which might clarify the picture for the Tribunal a little better?

Do you remember that Geheimrat Bosch, in his capacity as president of the Kaiser Wilhelm Society intervened for his Jewish colleague and personal friend, Prof. Haber, that under the Third Reich he had a celebration held by the Kaiser Wilhelm Society in that he

insisted that this celebration be carried out, even though the authorities tried to prevent or sabotage it?

A I remember now, that was so, but ...

Q Do you remember that upon the express desire of Geheimrat Bosch, which coincided with the desire of the other Farben people, wanted to have all number of I.G. plants using the Haber-Bosch process attend this celebration?

A Yes, that is correct.

Q Do you remember that representatives of these plants, after the celebration, deposited wreaths at the tomb of Prof. Haber?

A Yes, I heard that, too.

Q Do you remember that Prof. Bosch at one time, before the Ruhr industrialists, stated publicly that everybody was being ruled by a fool?

A Yes, that is correct.

Q And is it furthermore correct that this statement caused all these persons who admired and respected Prof. Bosch, to be greatly concerned for his personal welfare?

A Yes, that is correct.

Q Do you remember that the concern was even increased when Geheimrat Bosch one day after a very heated political discussion in the lobby of the Adlon Hotel, quoted the famous passage from Goetz von Berlichingen, when speaking of Hitler?

A Yes, I remember.

Q Do you remember that Geheimrat Bosch gradually had to give up the direction of many organizations that he had so far been a member of, especially scientific groups, which were especially close to his heart?

A Yes, but I cannot give you the names of the individual organizations.

Q I am only interested in the general picture. Do you remember that Geheimrat Bosch, at a stockholders' meeting of Farben, discussed the question of the scientific trainees for German industry and that he said that in the development of the German universities there was great that the intellectual qualities of young Germans were going to the dogs?

A I remember that was not only his worry but also that of many other scientific leaders in Farben.

Q Do you remember that he actually expressed that he actually expressed this worry in public at a stockholders' meeting?

A Yes.

Q And do you also remember that he concluded his statement by saying that industry would have to help itself if no change was taken, and would have to train its own men?

A Yes.

Q I believe that is enough for this question; but I have something to say on the question of "window dressing." Do you remember Dr. Frank-Fuhle, that the conversation in the Commercial Committee about the attitude of these members whom Farben sent abroad had some previous history?

A I did not understand your question; what do you mean: the attitude--or do you mean the employment of these people?

Q The general problem--was that discussed?

A Yes.

Q Is it correct that this entire subject had to be treated in the Commercial Committee only because in the previous months complaints from the field offices of the foreign organization had piled up in your office, according to which the members of the foreign representation of Farben did not cooperate sufficiently in the foreign organization?

A Yes, I believe I have already stated that.

Q Is it furthermore true that the resolution which was adopted was to support Komarzionrat in his attempt to smooth over things?

A Yes.

Q I have a personal question now; Dr. Frank-Fahle, am I one of those lawyers to whom Mr. Sprecher referred when he asked you whether among the defense counsel there were some who had formerly worked with and under you in the Berlin organization?

A Yes.

Q Is it true, Dr. Frank-Fahle, that when I saw you for the first time here in Nurnberg, that despite your and my personal loyalty toward the defendants, I explained to you the principles according to which Prosecution and Defense staffs to work; and that I asked you and suggested to you that you should begin your work for the Defense and we should discuss the details of it only after you concluded your work for the Prosecution?

A That is true.

MR. SPRECHER: Mr. President, I only want to make it plain to Dr. Gierlichs and to the other defense Counsel who may or may not have worked with Dr. Frank-Fahle, that I was intending no reproach, and I so stated at the time; and I think the question is utterly unnecessary. I was going towards the point, as you later observed, as to whether or not the witness may be called completely a friendly witness to the Prosecution. And that was my sole purpose, Dr. Gierlichs. If that was not clear, I make it clear now.

THE PRESIDENT: The Tribunal is quite sure that Counsel for the Prosecution did make it clear at the time he propounded the questions that he meant no reflection whatever upon Counsel for the Defense.

However, having asked the question, Counsel for the Prosecution has opened the door to a field of cross-examination which the Tribunal deems in this instance to be entirely proper, and the objection is overruled.

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BY DR. GIERLICH:

Q I have one last question, Dr. Frank-Schlo. When you were brought to Nuernberg , for interrogation, were any remarks made to you about the imminent cross-examination or interrogation?

A Dr, Gierliche, your question is not quite clear to me. Do you mean any remarks about the examination by the Prosecution? Or do you mean remarks about cross-examination here in the courtroom?

Q I believe I was not clear. I mean, before you were interrogated by the Prosecution—

A Then I understand that you are asking me whether any remarks were made to me in regard to interrogations by the Prosecution?

Q Yes.

A Mr. Acton, when he brought me to Nurnberg for the first time, in a jeep, made a few remarks to me which I consider private advice of Mr. Acton.

Q Is Mr. Acton a member of the Prosecution Staff?

A I believe so; I don't know.

Q Would you please tell us what the nature of this advice was?

A Mr. Acton told me that the Prosecution was not satisfied with my testimony... Oh, no, he started in a different manner. He said, first of all: "You are happy, aren't you, that you are not one of the defendants?" I didn't answer that. Then he remarked that fortunately the dock had room for only twenty-four defendants; otherwise, I would be in it, too. And he mentioned that one of the twenty-four defendants might be dropped because of illness; and that it was possible at any rate that I might fill that place unless I were a little more cooperative. I did not say anything to that but expressed my gratitude for his advice, and I was silent.

Q Thank you, Dr. Frank-Fahle; I have no further questions.

THE PRESIDENT: Any further cross-examination? Any re-direct examination?

MR. SPRECHER: At this time the Prosecution would merely like to mark for identification the letter which Fritz Thyssen did send to Goering, because I was wondering where he got the information that he gave to Dr. Gierlichs. That is Prosecution Exhibit 849, for identification. (Document handed to witness.)

RE-DIRECT EXAMINATION

BY MR. SPRECHER:

Q That is the first letter on top, right on top of the whole group

of documents.

Will you please read it through?

A I glanced through it.

Q Does that affect the nature of the testimony which you gave to Dr. Gierliche, in your own opinion?

A I didn't understand your question.

Q Does that affect your own feelings concerning the testimony which you gave to Dr. Gierliche concerning Thyssen's motives?

A I said that Thyssen had to leave Germany around the outbreak of the war.

Q You went into the question of why; that was the only question that I had.

A And I was in doubt whether that was in connection with Russia or the declaration of war.

Q Well, the record will indicate whether you stated any doubt before you saw the memorandum.

Do you have anything to add?

A According to this memorandum made by Thyssen, his action started before the war.

Q Yes.

DR. GIERLICH (Counsel for the Defendant Schmitz):

Mr. President, I merely want to clarify something. I did not refer to this letter which the Prosecution makes the subject of discussion, but to a telegram which preceded this later development. I want to clarify that, because I gained the impression from Mr. Sprecher's question that he wants to connect my question with this letter in some way; that is not so.

MR. SPRUCHE: I appreciate Dr. Gierlich's clarification.

THE PRESIDENT: The Tribunal is not clear as to whether there is any unanswered question in the record. There were some remarks made to the witness. Since we haven't facilities for reading the record immediately, would you mind, Mr. Sprecher, restating your question so that

we know just where we are?

BY MR. SPRECHER:

Q I asked you, witness, whether or not there was anything in this letter of Fritz Thyssen to Goering, which is dated 20 September 1939, and which was written from Zurich, Switzerland, and which refers to the month of August 1939. I was asking you if that made you think that your testimony concerning Thyssen's motives was correct.

A I see this letter of Thyssen to Goering for the first time. I am informed about the Thyssen problem only, as other Germans are; and that is that when the war broke out Thyssen — I don't know whether he was present in the Reichstag-- voted against the war, and that after that he left Germany.

MR. SPRECHER: I have no further questions.

THE PRESIDENT: Any further cross-examination?

DR. BACHEM (Counsel for the Defendant Ilgner): Please excuse me, Mr. President, I believe that Dr. Gierlichs might want to ask another question. He left the room and asked me to try to hold things in abeyance. I believe Dr. Gierlichs wants to get some more information.

THE PRESIDENT: Very well, we will wait a minute.

BY THE PRESIDENT:

Q Mr. Witness, while we are waiting, permit me, as a member and not as the Presiding Officer of the Tribunal, to ask you a question with respect to which I am personally not clear. It involves a matter of opinion along the line of many opinions that you have expressed here today.

Is it your opinion that Prof. Bosch was outspoken in his lack of sympathy for the Nazi movement, and that he dared to so express himself with a sense of security because of his prominent position and his age and his distinguished career—that lesser men would not have dared to do?

A Your Honor, if I understand your question rightly you asked me

whether Bosch, on account of his age and that, I should say, the greater part of his successful life was behind him, could risk his personal liberty--and even his life--by expressing his dislike for Hitler in another fashion than somebody who was in a position where he was still looking forward for some peaceful years?

Q That is partly it.

A It might be that Bosch--and this is my personal feeling--was so disgusted that the Nazi movement came into power that he had lost any outlook for the future. But, on the other hand, I should say that sometimes he expressed the hope that the Nazi regime would disappear in a rather short time.

Q Thank you very much.

DR. PRIBILLA (Counsel for the Defendant Lautenschlaeger):

Mr. President, please permit me to put a question in connection with your question.

BY DR. PRIBILLA:

Q Dr. Frank-Fahle, I am of the impression that you have only partly answered the question of the President. I, at least have seen a further meaning in this question, and that meaning is not unimportant for all of us.

Wasn't it true, witness, that a man of the outstanding position, the esteem, and the age of Mr. Bosch, could more easily afford to express his misgivings openly than any other German who held a lesser position in Germany?

A I believe that you have put the question correctly. If the Nazi government at the time had arrested Geheimrat Bosch because of the statements that he made which were certainly known to it, that would have constituted a greater loss of prestige for the Nazi regime than the advantage of getting rid of an unpleasant opponent. Therefore, I believe that it is correct if I expand my answer a little by saying that the eminent scientist Geheimrat Bosch, famous all over the world, could well risk speaking openly. However, I should like to emphasize that

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in the course of the years it became increasingly more dangerous for
him to continue to express his opinions freely.

Q. Can you give me an unequivocal answer to the question of what would have happened to a man in your position, or in a lesser position, any one of us if he had expressed his opinion in the same manner at the time?

A. We would have been arrested.

Q. And what else?

A. Probably disappeared into a concentration camp.

DR. PRIBILL.: Thank you very much.

RE-CROSS EXAMINATION (Continued)

DR. FRANK-FAHLE

BY DR. GIERLICH, counsel for the Defendant Schmitz:

Q. Your Honors, may I, only for the purpose of identification, submit as Exhibit No. 1 for Schmitz, a publication of Ernst Poensgen, which is entitled, "Hitler and the Ruhr Industrialist". I want to submit evidence from this document later on, and should now like to mark it for identification only, because I want to put a passage from it to the witness.

THE PRESIDENT: The exhibit may be marked as Exhibit 1 of the Defendant Schmitz, for identification.

DR. GIERLICH: Thank you.

To clarify things, may I say that this publication of Ernst Poensgen comes from an important man in the Ruhr Industry.

Dr. Frank-Fahle, would you please read the sentence which deals with Thyssen and his situation? The decisive parts referring to Thyssen as of the first of September, I believe; it begins "When he..."

A. Yes. "When he, that is, Thyssen, was called to the meeting of the Reichstag of 1 September 1939, he sent a telegram from Bad Gastein to Hitler, 'I am unable to come; I am against any war, and against any cooperation with the Soviets which would only lead Germany to Communism'".

Q. What Poensgen wrote was important for me, and I wanted to ask you whether the description of Mr. Poensgen's, according to which Thyssen sent a telegram, in which he expressed his unwillingness to

... Reichstag meeting of 1 September 1939, and in which he also expressed his disapproval of war as such, and especially rejected cooperation with the Communist -- excuse me, I have not finished my question, - is this description what one might ordinarily know in Germany about Thyssen's conduct and the reasons why he left Germany?

THE PRESIDENT: The answer will be considered out, and Counsel for the Prosecution may make his objection.

MR. SPRECHER: I was not quite clear about the question, and I am merely asking for a clarification. I am not making an objection.

THE PRESIDENT: Very well

MR. SPRECHER: Now, we do want to indicate that with respect to the document of Poenagen's we do not consider whether or not, it correctly records the events. I take it it was made after the fact, by another German industrialist. I could not understand whether or not Counsel was directing the attention of the witness to the quotation which already appears in the document I showed him or not, and if he was, then I think we have the best evidence before us, and I cannot see that it is any different, Dr. Gierlichs, than the document I showed him.

If we can make that clear, then the question can be directed to a specific telegram, and we can tell whether or not this witness knew about it himself at the time, or whether he learned about it since 1945 from reading Mr. Poenagen's document now.

THE PRESIDENT: The document to which the Prosecution refers is not in evidence, and the Tribunal cannot pass upon that matter. But assuming that to be true, it would seem to be a rather immaterial circumstance as to whether the memory or recollection of the witness is refreshed from one or the other of the documents, since there is a statement that they are substantially the same anyway.

MR. SPRECHER: I could not tell for certain, Your Honors. It seemed to me that that was true, but I object because there is an improper qualification. I would like to know whether or not the quotation there is an exact quotation from Thyssen or not.

THE PRESIDENT: Be that as it may, whether it be proper or improper factual or otherwise, true or untrue, Counsel for the Defense is cross-examining this witness with reference to a matter that was gone into by the Prosecution, and Counsel for the Defense has the same privilege to refresh the recollection of the witness, if he can, with reference to the document marked Exhibit 1 of the Defendant Schmitz, as the Prosecution had to put in the hands of the witness Document identified as 849, and asking if that refreshed his recollection.

The objection is overruled.

BY DR. GIERLICH:

Q. May I repeat my question? Does the description of Mr. Poensgen's, especially the sentence which you just read, in your opinion; Dr. Frank-Fahle, what the informed public in Germany knew about the reasons for Thyssen's flight from Germany?

A. Yes, I should say so.

DR. GIERLICH: Thank you very much. I have no further questions.

RE DIRECT EXAMINATION

BY MR. SPECHER

Q. Witness, was the letter which you just quoted - either in the Prosecution exhibit or in the Schmitz Exhibit No. 1 for identification, - was that made known to you before the collapse of Germany in 1945?

A. No, not in writing. In other words, we never read it, but we heard about it.

MR. SPECHER: No further questions.

THE PRESIDENT: Is there any further cross-examination?

The presiding officer hears none. The cross-examination is concluded.

The Marshal may escort the witness from the box.

JUDGE MORRIS: I would like to make a personal comment here, because what we have just witnessed has been an excellent example of absolutely wasting the time of this Tribunal with regard to a purely collateral matter, which under any rules of evidence that I have ever

heard of in court, would be clearly held collateral, improper and beyond the scope of the issues of the lawsuit.

I am talking about all of the examination involving this man Thyssen. As I remember yesterday, this thing started with some questions regarding the Defendant Kraush. It was brought out on cross-examination that Kraush was appointed to an important position by Bosch, and then a question was asked from which it was brought out that Bosch was opposed to the Nazi regime and the Nazi rise to power. That was probably because of Bosch's position at the head of Farben and the important ways in which his name has already come into this lawsuit.

Then when counsel for plaintiff took over the witness on re-direct, he undertook to counteract the effect of the implication of the cross-examination, and he started in to cross-examine the witness himself with regard to Bosch's position with reference to the Nazi regime.

That may have been proper under the circumstances, but counsel went entirely over the line of proper examination when he started to compare Bosch with some other man by the name of Thyssen, and he injected Thyssen into this lawsuit, by inquiring about some of Thyssen's activities and when Thyssen broke with Hitler, and I think the witness testified that Thyssen was first a supporter of Hitler and then later on broke with him.

That loosed a controversy over this collateral matter of Thyssen's position with respect to the Nazi regime, which, the farther it went, the more it degenerated and the farther it got away from any possible issue in this case, with the result that we finally wound up just a moment ago with the reference to various documents regarding when Thyssen fled from Germany and possibly in timing why.

I just want to use this as one of the examples of how far this case can get away from any issue that is properly justiciable under the pleading that are before us. If we are going to try to attitude of various people throughout Germany, just as a matter of comparison with

Bosch or with the defendant or anyone else, then there certainly isn't any limit at all to relevancy as far as this case is concerned.

I am making those observations strictly on my own, and personally, but I felt that it was my duty to speak and point this out as an example to counsel on both sides of how utterly irrelevant testimony and evidence can become.

THE PRESIDENT: Those observations are very pertinent, and in the same connection I should like to observe that there may be a bit of impatience once in a while with the apparent sternness of the Tribunal in holding this evidence in to duly established channels. In that connection it is perhaps worthwhile to observe that long, long experience has demonstrated that we can hew to the line, so far as the issues are concerned, and we can avoid going into collateral matters if we reasonably observe established rules of competency with respect to evidence. That is the fundamental of why we have those rules, and an observance of those rules will avoid, in the future, the matters with respect to which Judge Morris has just spoken.

The Tribunal will now rise for its lunch hour.

(In recess until one-thirty)

AFTERNOON SESSION

THE MARSHAL: The Tribunal is again in session.

THE PRESIDENT: The prosecution may continue.

MR. SPRECHER: The prosecution calls as the next witness, Dr. Alfred Johannes Hoffmann. The only affidavit in question, your Honors, is NI-9198, Exhibit 539, which will be found in the document book 36, at page 7 of the English, and page 8 of the German.

DR. ALFRED JOHANNES HOFFMAN, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q. What is your name?

A. Alfred Johannes Hoffmann.

Q. Will you repeat this oath after me?

I swear by God, the Almighty and Omniscient, that I will speak the pure truth, and will withhold and add nothing.

(The witness repeated the oath)

DIRECT EXAMINATION

DR. ALFRED JOHANNES HOFFMANN

BY MR. SPRECHER:

Q. Will you repeat your full name once more for the record?

A. Dr. Alfred Johannes Hoffmann.

Q. What is your present address?

A. Minden, Westphalia, Volterring 12.

Q. And what is your present occupation, Doctor?

A. I am in the Administrative office for Economics.

Q. Minden?

A. Yes.

Q. What was your position prior to the German collapse?

A. I was a referent in the Reichs Ministry of Economics.

Q. You have before you a copy of the affidavit you gave to Dr. Heilbrunn on the 21st day of July, 1947, which is marked NI-9198, Prosecution's Exhibit 639?

A. Yes.

MR. SPEECHER: Your Honors, may I point out two errors in translation with respect to this document before I question the witness? The witness pointed these out to us.

THE PRESIDENT: Yes, surely.

MR. SPEECHER: At the end of paragraph 2, in your translation, there are the words, "caustic soda", and the "cellulose". "Cellulose" should be stricken, and instead should appear, "caustic soda for artificial fiber"-- "caustic soda for artificial fiber", and strike the word, "cellulose".

And then just following that there is, "chlorine, solvents". That should be, "chlorine for solvents".

And then, your Honors, if you will turn over to the next page, just after the figures that are listed, there is an error in the translation beginning with, "At the time in question, the I.G. therefore produced, ". The word, "produced" should be stricken, and in its place there should be, "had a share of".

In other words, it is the question of "producing approximately 78 per cent of the production capacity" as against a correct translation which would say: "had a share of 78 per cent in the total production capacity".

Q. Now, Mr. Witness, does that make the corrections as you have them in mind, so far as the translation is concerned?

A. Yes.

Q. Have you discussed this affidavit with Dr. Charnatz this morning?

A. No.

Q. Dr. Chermatz is the gentleman to my right.

A. Yes.

Q. And did you make these suggested corrections to him?

A. Yes.

Q. Do you have any further additions or corrections that you would now like to make to your affidavit?

A. No.

DR. SPRACHER: No further questions.

THE PRESIDENT: The defense may cross-examine.

CROSS EXAMINATION

ALFRED JOHANNES HOFFMANN

BY DR. THEOBALD, counsel for the defendant Dr. Buergler:

Q. Witness, in your affidavit about the production, you talked about the production of caustic soda, and under No. 3 you made a list of the production capacity of Farben for caustic soda in the years 1942 or 1943, according to official documents, as you say. May I ask you whether you have comprised all of the production of caustic soda in Germany by this list?

A. So far as the production by electrolysis is concerned, yes.

Q. And there are still other ways of production of caustic soda?

A. Yes.

Q. And here only the production by electrolysis is concerned?

A. Yes, only the electrolytical production.

Q. On the left side of the list you compiled the capacities of the I.G. and of the "Konzern"-plants. Do you mean by "Konzern" plants only those in which Farben participates with a share of 100 per cent, or also the

remaining?

A. By Konzern works, I included the works which were primarily dependent on I.G.

Q. What do you mean by decisively depending on Farben?

A. Where the percentages of the I.G. were at least 50 per cent, or where the management was in the hands of I.G.

Q. Can you tell me which ones of the plants that you listed are so-called Farben concerns?

A. I would say Bitterfeld, Gersthofen, Hoechst, Leverkusen, Ludwigshafen, Rheinfelden, Schkopau and Wolfen and I.G. plants.

Q. Please go a little more slowly.

A. The first nine are I.G. Works; the other are I.G. concerns.

Q. Do you know whether the last named so-called Konzern plants, are those in which Farben did not participate with 100 per cent shares?

A. With Burghausen and Mueckenberg, so far as I am informed the I.G. share amounted to 50 per cent.

Q. Is that only Burghausen and Mueckenberg?

A. Yes, Burghausen and Mueckenberg.

Q. How about Aussig?

A. Yes, Aussig too belongs to the I.G. only 50 per cent.

Q. Did you incorporate the production of those 50 per cent plants completely into the list, or only one-half?

A. No, I put them in to the fullest extent.

Q. Don't you think that when one calculates Farben production capacity one would have to include only one-half of the capacity or that is only one-half of the production to Farben?

A. Well, that is a matter of opinion. When one wants to consider or express the influence of a plant, one can only put down part of the capacity,

Q. If in the case of Aussig, for instance,---which belongs partly to what firm?

A. One-half to I.G. and one-half to Chemische Werke, von Heyden, Dresden.

Q. If you, in a separate list would have listed the production of caustic soda of Heyden, would you have then again listed Aussig with the full amount?

A. Probably not.

Q. Then I believe that you agree with me that an incorporation is not quite correct?

A. I said that it is a matter of opinion.

Q. Then if the capacities of those plants should be subtracted, then of those plants which already participated partly, then the production is not diminished essentially on the left side, but can you please tell me how high the production in the caustic soda was?

A. I regret that I do not have any documents with me. I was on leave when I was called here.

Q. Is it correct if I put to you that the production of caustic soda by the civilian process was just as high as that production that you have listed here?

A. I would say the proportion was was 40-60.

Q. What is 40 and what is 60 per cent?

A. 40 for caustification, and 60 for electrolysis.

Q. We will not go into the matter, although I am of a different opinion. But doesn't that shift Farben's share in the entire caustic soda very intensely?

A. I should like to say that this chart was not supposed to show the caustic soda situation, but the

electrolysis situation, and in the discussion preceding the drawing up of this record here, we talked more about chlorine than caustic soda and only, because caustic soda and chlorine were taken together, and I had evidence on caustic soda production, and not chlorine production, this chart came about.

Q. But you will admit that the affidavit as a whole speaks considerably more of caustic soda than of chlorine, so far as production it concerned, and you will furthermore admit that under paragraph C at the beginning you say quite expressly that Farben shares in caustic soda chlorine production in Germany before the war exceeded 75 per cent?

Then after you list you say again it is 78 per cent for caustic soda?

A. Yes, to be correct it should have said caustic soda production by the electrolysis process.

I did not consider that necessary because the caustic soda and chlorine production were discussed together, and for me, as a chemist this compilation makes it quite clear that that refers only to this part of the caustic soda production.

Q. But you admit that for a man who is not a chemist, that is for the Tribunal and other persons participating in this trial, who do not know your trains of thought, when you compiled that list, it would have been necessary to specify the origin or production process of this caustic soda?

A. Yes, that would probably have been better.

Q. Another question. In paragraph 2 you say that the purposes for which caustic soda and so on were used in war products are cellulose fibers, - artificial fibers. May I ask you, are artificial fibers a war product?

A. No, not necessarily, but during the war, of course, it was of considerable importance.

Q. Since what time is caustic soda used for artificial fibers?

A. To a large extent from about '34, or '35 on.

Q. And since what time for the first time?

A. I am afraid that I cannot tell you exactly.

Q. Weren't artificial fibres also a prewar product?

A. Yes, certainly.

Q. Weren't they also producing this already under the 4 year plan; under the point of view of saving foreign exchange, of saving imports of other raw materials for clothing?

A. I assume that, as a matter of course, but that was outside of my sphere of work, and I cannot answer this question definitely.

Q. Is it correct that even during the war at all times the civilian requirements for cellulose wool or artificial fibers, the peacetime requirement, was larger than the war time necessity?

A. I cannot answer that question?

Q. The last question, do they produce artificial fibers again in Germany today?

A. So far as I know, only to a very small extent and that is because of the lack of raw materials.

DR. THEOBALD: Oh, I see. Thank you very much.

I have no further question.

THE PRESIDENT: Is there any further cross-examination?

There would appear to be none.

Is there any re-direct examination?

MR. SPRECHER: No, Mr. President.

THE PRESIDENT: The witness is excused.

MR. SPRECHER: The prosecution calls as the next witness Hermann Baessler.

THE COURT: The witness will remain standing and raise his right hand.

State your name.

THE WITNESS: Hermann Baessler.

THE PRESIDENT: You will repeat this oath after me:

I swear by God, the Almighty and Omnipotent, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

HERMANN BAESSLER

BY MR. SPRECHER:

Q. Mr. Baessler, will you repeat your full name for the record, please?

A. Hermann Baessler,

Q. What is your present address?

A. Frankfurt am Main, Guttenbergstrasse 41.

Q. What is your present occupation?

A. I am employed by the I.G. Control Office in Frankfurt on Main.

Q. What was your position before the German collapse in 1945?

A. I was deputy Section Chief and Office Chief in the central supervisory office in Frankfurt, and from 1941 I was authorized as agent.

Q. What were you from 1941?

A. I was authorized to act for the company.

Q. Handlungsbefugmactiger can be translated as someone possessing a power of attorney; is that correct?

A. No, it is a very minor thing; I was authorized to sign in limited circumstances.

Q. You were authorized to sign usually with somebody else on behalf of the company; is that correct?

A. Yes, only together with either a procurist or a member of the Vorstand or a director.

MR. SPRECHER: The witness, your Honors, has copies of each of the affidavits that came into question altogether; there are nine of them. The first is found in Document book 4, NI 9200, prosecution's exhibit 80, English document book 26, German document book 21.

Q. Witness, have you checked over this affidavit of your is which you go into some contributions made by I.G. Farben since the time you executed the affidavit in order to see if you had made any errors?

A. Only in inclosure one there might be something to add, to supplement. In one I might add that the figures regarding Hoesburg and the Buna Works, there were six other small firms always included, but they are only small companies. I will give you the names if you are interested.

Q. Mr. Baessler, will you repeat your full name for the record, please?

A. Hermann Baessler.

Q. What is your present address?

A. Frankfurt am Main, Guttenbergstrasse 41.

Q. What is your present occupation?

A. I am employed by the I.G. Control Office in Frankfurt on Main.

Q. What was your position before the German collapse in 1945?

A. I was deputy Section Chief and Office Chief in the central supervisory office in Frankfurt, and from 1941 I was authorized as agent.

Q. What were you from 1941?

A. I was authorized to act for the company.

Q. Handlungsbevollmachtigter can be translated as someone possessing a power of attorney; is that correct?

A. No, it is a very minor thing; I was authorized to sign in limited circumstances.

Q. You were authorized to sign usually with somebody else on behalf of the company; is that correct?

A. Yes, only together with either a procurist or a member of the Vorstand or a director.

MR. SPEECHER: The witness, your Honor, has copies of each of the affidavits that come into question altogether; there are nine of them. The first is found in Document book 4, NI 9200, prosecution's exhibit 80, English document book 26, German document book 21.

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A. Only in inclosure one there might be something to add, to supplement. In one I might add that the figures regarding Hoesburg and the Buna Works, there were six other small firms always included, but they are only small companies. I will give you the names if you are interested.

MR. SPRECHER: Since, your Honors, that applies to the tabulation on page 29 of the document book in the English, and after that page 6 of the original, and since you have gone into the question, Mr. Witness, you may as well add the names of the companies that you have just mentioned.

A. The additional firms are Grissow, Griesheimer Autogen-Verkaufs, G.m.b.H Luranil-Baugesellschaft mbH, Ludwigshafen; Muehlhauser Chemische Werke, Muehlhausen; Ostmarkische Pflanzenschutz GmbH, Wien; Pallas Konzernversicherung GmbH, PFN, and Serotherapeutisches Institute, Wien.

Q. Do you have any other corrections in this affidavit?

A. Not on this one. I have something to say about Exhibit 385.

Q. All right. That, your Honors, is in Document Book 15, NI-10044, in Document book 15, at page 16 of the English, and page 17 of the German.

You may go on now, witness.

A. When I made this affidavit, I had to look up all of the records of the working committee meeting since 1926, on, and all but the second one from the last were available.

I have now learned that Dr. Doncker and Dr. Gattineau specifically, are in the record from 1932 to '35, Dr. Gattineau, and Doncker from '35 to '38, in this book as members of the working committee. I began to wonder about this later on, and I found out on the basis of the regulation for the Vorstand which existed since 1926, only regular and deputy members of the Vorstand can be members of the working committee.

Dr. Gattineau was only a procurist at the time, and Doncker was a titular director. I doubt very much whether these two men are to be counted as members of the working committee, although they were always listed in the minutes.

Q. Do you recall that at any request Mr. Aetion talked to you about that matter at the time you were drawing up the affidavit, and we expressed the same doubt?

A. Yes.

Q. And it was at that time your opinion, - excuse me, -- and it was

at that time you opinion that on the basis of your minutes the gentlemen were members?

A. Yes.

MR. SPEECHER: Your Honor, I just want to make the prosecution's position clear at this time to say that we do not consider Dr. Dencker and Dr. Gattineau as having been actual members of the working committee of the Farben Vorstand during the period indicated, but merely that as the witness has testified, they were present for one reason or another, during the meeting, during the period indicated in the lists by the witness Baessler.

Q. Did you have anything further on the point, Mr. Baessler?

at that time your opinion that on the basis of your minutes the gentlemen were members?

A. Yes.

MR. SPEECHER: Your Honor, I just want to make the prosecution's position clear at this time to say that we do not consider Dr. Dencker and Dr. Gattineau as having been actual members of the working committee of the Farben Vorstand during the period indicated, but merely that as the witness has testified, they were present for one reason or another, during the meeting, during the period indicated in the lists by the witness Baessler.

Q. Did you have anything further on the point, Mr. Baessler?

A. Dr. Durston, I have discovered, was only present once, at the last meeting. That was on the 7th of April, 1938. Otherwise, he never attended a meeting.

Q. Of the Working Committee?

A. Yes.

Q. And that was the last meeting that the Working Committee had before there was the reorganization when it was abolished?

A. Yes.

Q. Do you have any other corrections to any of the other affidavits?

A. No.

Q. No further questions.

THE PRESIDENT: Defense may cross examine.

CROSS EXAMINATION

BY DR. GIERLICH (Defense Counsel for defendant Dr. Schmitz):

Q. Witness, may I first of all ask you to explain to us your official position within Farben a little more precisely. At any rate, in the German document books, the explanations to this question vary in the various affidavits.

A. I was a deputy of the department chief and head of the office in the Central Committee Office in Frankfurt and, from 1941 on, I was given the authorization to sign.

Q. What was your function as chief of the office?

A. I had to supervise all the office work, supervise the incoming and outgoing mail and everything connected with it - general office work.

Q. That is to say, you were more concerned with the technical work in the office and had no authority to issue directives?

A. Well, in part I did, but for important decisions the department chief had jurisdiction.

Q. I shall now turn to your affidavit, NI-7366, which is Prosecution Exhibit 341. Page 207 of the English document book 12 and page 189 of the same German document book. Under paragraph 2 of that affidavit you say that the Central Committee was responsible for the preparation for all important general questions. Can you tell me from your own knowledge of conditions whether in fact this Central Committee always worked according to this regulation?

A. No, I was never present at a meeting of the Central Committee. This formulation comes. I believe, from a circular letter issued when the Central Committee was organized.

Q. It is not testimony of your own - from your own knowledge?

A. No.

Q. Did they take any minutes at these sessions of the Central Committee?

A. Yes, but only from 1930 to about 1937, I believe, and later no minutes were kept any longer. But each time, Geheimrat Dr. Schmitz reported in the Working Committee of the Vorstand.

Q. So that your information was obtained only in this indirect way?

A. Yes.

Q. I should now like to ask you a few questions about the contribution lists that you have made which are found in this same affidavit. Mr. Baessler, beginning with 1933, in your list of contributions one can see a large amount of money under the name of Adolf Hitler contributions of German industry. Can you tell us how this contribution was calculated since the amount that you have indicated changes for every year?

A. The amount was calculated each time with 3/1000 of the wages for the previous year. I believe it must have been uniform for the entire industry and been fixed by the Kuratorium for the Adolf Hitler contributions.

Q. You added something now which already anticipates my next question. Was this Adolf Hitler contribution customary in German industry and did they contribute from all firms, large or small, chemical firms and others?

A. As far as I know, there was a Kuratorium of the Adolf Hitler Fund in Berlin which included all German industry. All firms paid into it. The firms.....

Q. (Interrupting) That will come later.

If you say that this contribution was calculated according to a fixed table of turn-overs and if all German industry contributed, was it then really a voluntary contribution or wasn't it rather a sort of compulsory contribution - an additional expense which did not depend on the will of the individual business man?

A. Well, there was a certain amount of compulsion. It was called the Adolf Hitler contribution, the amount of the contribution was set and had to be figured out on the basis of wages and salaries.

Q. You already indicated just now the answer to an additional question. Do you know how this contribution - this Adolf Hitler contribution - was brought about or what purpose this was to serve?

A. I believe the first payment was in 1933 when the fund was created. A board was set up by industry and the purpose of the fund was to obtain money for the Party, and all the collections of the SA, SS, etc, were to be taken over by this Kuratorium. Every firm had to contribute once a year to the Adolf Hitler fund and thus it was unnecessary to contribute to all the little collections to the Party units.

Q. Thank you very much. The next question refers to payments to the Winter Aid fund and, after the war, payments to the war fund for the German Red Cross. The amounts fluctuate constantly here too. Can you please tell us on what basis these contributions were calculated?

A. The Winter Aid request was made for the first time in the Fall

of 1933. A million marks were pledged by the I.G. at that time. That was in the first year. Later, a request was made to pledge an amount which I believe was 15/1000 of the corporation taxes for the year, but the I.G. never observed these payments. Through all these years, the I.G. paid about the same amount although there should have been increases. In 1936 or 1937, we once figured out what we should have paid.——

Q. Please talk a little more slowly.

A. We arrived at an amount which was at least twice what we actually paid. Later on percentage of the corporation tax was requested, but every firm was requested to pay according to capacity.

Q. Thank you very much.

Witness, we don't want to go into this too deeply. May I consolidate your answer by saying that a certain key of calculation was decisive for those contributions which were valid for all industry?

A. In the Winter Aid, in the last few years, it was not carried out in such a strict form, but

Q. (Interrupting) Yes, you've stated that. May I then sum up what you said and state that, according to the nature and type of these payments and the way it was calculated, Adolf Hitler contributions, Winter Aid Fund, and the Fund for the German Red Cross are.....

A. (Interrupting) I don't know about that. No percentages were set for the Red Cross.

Q. Then you distinguish between.....

A. (Interrupting) I don't know that there was any percentage set for the Red Cross. Just a general request to contribute.

Q. Then we'll eliminate that. Then we'll only say Adolf Hitler contributions and Winter Aid Fund had the character of a compulsory contribution?

A. Yes.

Q. Witness, I now want to cite an example which is really only insignificant but it would show the necessity that all the other items in your list have to be checked too. It is contained in your affidavit HI 9200, which is Prosecution Exhibit 80, on page 26 of the English document book 1/4 and page 31 of the same German numbered document book. Under paragraph 7, you list, by referring to Enclosure 24, two payments for the newspaper Rheinfront of 1,500 and 7,000 Reichsmarks and you say, in this connection, that the first sum was paid, "as far as I know, for advertisements" and the second amount for books purchased from the publishers of the National Socialist newspaper Rheinfront.

A. I believe that I can remember that that was the case.

Q. Do these contributions really represent genuine contributions or are they collector^{al} for the advertisements that the newspapers had?

A. Yes, certainly, this newspaper, I can remember very well, approached the plant at Ludwigshafen ...

Q. (Interrupting) We don't want to go into this too deeply. I believe ...

MR. SPRECHER: Mr. President, I dislike to interrupt and object that counsel prevents the witness from giving the truth on some of these matters, but it does seem to me that the witness was being not responsive at the time he was interrupted.

THE PRESIDENT: The chair thinks that the witness had progressed far enough on his answer to show that he wasn't entirely responsive to the question. There is no requirement against counsel interrogating a witness interrupting when the answer is not responsive. The objection is overruled.

BY DR. GIERLICH:

Q. In the lists that you propounded, as far as you can tell at the moment, are there any other items for which some services of a similar nature were made so that one could not speak of a genuine contribution?

A. No, I don't believe so. I merely said that at the time because these two sums were included in the listing so there would be no mistake, because I could remember very well that this was no contribution but payments which were made by Ludwigshafen and an advertisement was published at the time which I believe cost 1,500 marks and they bought a number of books and they had no account on which it could be entered and it thus was calculated on the contributions account.

Q. Under appendix 26, Mr. Baessler, you treat of contributions of Farben to the Society for the Promotion of German Industry in the amount of somewhat more than five million Reichsmarks. Can you give us some idea of the reason for this payment?

A. As far as I remember, it was a collection to promote purely

scientific training. It was an amount of 5 million marks. 26,250 marks were interest which had fallen due because the amount was to have been paid six months or a year earlier.

Q. May I put the following to you, Mr. Baessler. In your list, in general, Party organizations or affiliated organizations are contained. By incorporating this amount of five million in this list, the largest single contribution, one might gain the impression that also this payment is one to a National Socialist institution and one might gain this impression even more since other scientific and other cultural institutions, for which Farben contributed large amounts of money, are not listed. My question is then, do you consider it proper to categorize these five million marks into this same type of payments as the other payments?

A. No, I don't consider it right and I wouldn't have done it that way.

Q. Why did you include this amount in this list?

A. The gentleman who prepared the affidavit with me, at the time, asked it to be included, and I pointed out at the time that it really was not a contribution to a Party organization, but the money was paid to the Reich Group Industry.

Q. Mr. Baessler, it is just now pointed out to me that the translation in the English doesn't quite follow. Please speak a little more slowly so that the interpreters can follow you.

With the permission of Your Honors, I should like to repeat the last question.

THE PRESIDENT: If you had some doubt about the translation, it's entirely proper that you do so.

BY DR. GIERLICH:

Q. You had stated, witness, that you yourself didn't want to include these five million into the list?

A. Yes.

Q. And then I asked you why was it done nevertheless. Will you please answer that question slowly?

A. The amounts, the payments to be included, Mr. -- I don't remember the name -- gave them to me. There was a man and a lady in Frankfurt. They picked out the amounts and they asked me to confirm that these payments were made. There were other payments and whether they were to be included under contributions to the Party seems doubtful to me. I believe the payment to the House of German Art in Munich and to the Academy for German Law

Q. (Interrupting) Witness, don't let's waste the time of the Tribunal with these details and, therefore, I confine myself with deliberation only to a few striking examples. May I ask you, did you point out to the interrogator that according to your opinion to incorporate these five million marks would not be correct?

A. I believe that I said to them at the time that this was a payment to the Reich Group Industry and not to the Party.

Q. Thank you.

I now come to another affidavit of yours. That is, NI-9957, Prosecution Exhibit 382, page 1 of the English and German Document Books 15. I only have one question in connection with this affidavit. It contains, on page 2 of the original, a list about the members of the administrative Council (Verwaltungsrat) of Farben. In the second column of this list in which the duration of membership of the individuals is indicated one can see that none of the gentlemen belonged to the Verwaltungsrat after 1937.

A. Yes.

Q. One can conclude from that that the administrative council, the Verwaltungsrat, was dissolved some time in 1937. Is that correct?

A. At the end of 1937, there were four men still on the Verwaltungsrat. That was Geheimrat Bosch Dr. Kalle and then, I believe, Dr. Schuon and Dr. Simson. Dr. Schuon died in December, 1937, and von

Simson retired at the end of 1937. That left Geheimrat Bosch and Dr. Kalle. I don't believe that these two gentlemen held meetings in 1938. As far as I know, in the meantime, one could obtain the records of the Verwaltungsrat meetings.

Q. Mr. Baessler, since you are depicting the situation formally only, according to the documents, I don't want to go into this and only clarify the formal state of affairs and, therefore, I should like to put to you that the new Corporation Law of January, 1937, provided that the duration of office of the organizations of the corporation, such as Vorstand, Aufsichtsrat and Verwaltungsrat should last until the shareholders' meeting which would decide matters about 1937. That means, until a period of time in 1938. Is that correct?

A. Yes. The Working Committee met until April, 1938.

Q. Then you do agree with me that legally, at any rate, the activity of the Verwaltungsrat was not concluded in 1937 but with the shareholders' meeting in 1938?

A. Yes, but I tried to find out whether there was any record of invitations to meetings or meetings in 1938, but I was not able to find anything.

Q. This question is not treated in your statement and we must confine ourselves strictly to the subject of your statement and shall therefore deal with these questions in another connection.

Thank you very much.

Mr. President, I have no further questions.

BY DR. BACHEM (Defense Counsel for defendant Ilgner):

Q Your Honors, I should like to put a few questions in respect to Document NI 10044, Exhibit 385, English Document Book 15, page 16, German Book 15, page 17.

Mr. Baessler, may I first of all ask you once more to speak very slowly and to try especially to give your answer only after the interpreter has finished interpreting my question, for, otherwise, the Tribunal cannot distinguish between questions and answers.

Mr. Baessler, a short while ago you made some statements to this affidavit which deals with the Working Committee of the Vorstand. I should like to ask you, first of all, whether, during the time of your activity in the Central Committee Office, you dealt with questions of the Working Committee or whether you derived your knowledge only not from the documents which were submitted to you?

A In the Central Committee we prepared the by-laws of the Working Committee at least from 1931 on. Dr. Duisberg was the Recording Secretary and he was the department chief at that time. He attended the meetings. The agenda were worked out in the office of the Central Committee and in the preceding office, that was the I. G. Allgemoin office in Ludwigshafen.

Q Mr. Baessler, when you were examined by Mr. Sprecher previously you mentioned the by-laws of the Working Committee from 1926. I assume that you know this charter. You know certainly that this charter contains a list of the members of the Working Committee of the Vorstand and that in the heading of this list the following remark is contained, and I quote: "According to the nomination to a regular Vorstand member."

Mr. Baessler, I ask you, don't you conclude from this quotation and from the contents of the by-laws, you must conclude with me that only regular Vorstand members were members of the Working Committee?

A I cannot decide that question. In making out this affidavit I based my statements on the minutes. There is always a page attached about

the list of the gentlemen present, separated strictly according to Administrative Council, Aufsichtsrat, and then comes the sentence "from the Working Committee, then there is always a space and then come the guests."

Q May I ask you, Mr. Baessler, after the members of the Working Committee do these minutes actually read "guests" or is there some other formulation?

A There is nothing. There's just a space and then follow the names of the people. I know that that was customary. Those were the people who just happened to be present and attended the meeting.

Q From your answer, I concluded, Mr. Baessler, that your knowledge about membership in the Working Committee of the Vorstand was derived merely from this form of the minutes?

A Yes.

Q In connection with the fact that you mentioned previously, according to your opinion, Dr. Gattineau was not a member of the Working Committee of the Vorstand, I should like to ask you whether you know that Dr. Gattineau, in his capacity as Chief of the Press Bureau, participated as a guest in the Working Committee meeting of the Vorstand?

A No, I assume that Dr. Gattineau was sent as a guest to the Working Committee meetings because shortly before, he had become head of the Economic Political Section in Berlin.

Q Do you have any document or proof for this statement?

A That can be seen from the records of the Working Committee and from the minutes it is mentioned that there was an economic political section created in Berlin, headed by Dr. Gattineau, and shortly afterwards a decision was issued by the Central Committee that he was to attend the meetings of the Working Committee.

Q Do you know that, in the same resolution, the Press Bureau, which was also under the leadership of Dr. Gattineau, is mentioned?

A Yes, it is mentioned.

Q So that one might also conclude that Dr. Gattineau attended these meetings because of his capacity as a press chief?

A I don't know that. He was head of the press bureau and economic political section, or rather the press bureau was a sub-section.

Q I have no further questions.

BY DR. WAGNER (Defense Counsel for defendant Wurster):

Q Witness, concerning the question of the prosecutor you stated that Dr. Wurster was present only once in the Working Committee meeting namely on the 7th of April, 1938.

A Yes.

Q I ask you, was Dr. Wurster really a member of the Working Committee?

A Well, Dr. Wurster, on the first of January, 1938, became a deputy member of the Vorstand. He attended one meeting, he was also listed among the members of the Working Committee in the record. I do not know whether he was actually appointed or not. I made all my lists only from the list of persons present at the meeting.

Q Then you merely concluded from his one time presence that he was a member?

A Yes.

Q But you have no other facts to cite for his membership?

A Well, there are hardly any such facts for anybody. Except in very few cases, no actual appointment mentioned in the minutes.

Q But how do you explain the fact that Dr. Wurster says that he had been present only once, but he was no member of the Working Committee?

A Well, then when the minutes were drawn up, he was mentioned under "Members" instead of under "Guests" by mistake.

DR. MAGLER: Thank you very much.

THE PRESIDENT: Any further cross examination of the witness? Since there appears to be none, has the Prosecution any redirect examination?

REDIRECT EXAMINATION

BY MR. SPRECHER:

Q I only want to come back to the contribution which was listed in Exhibit 80, NI-o200, where you mentioned that the Society for the Promotion of German Industry received a contribution of over five million marks in the year 1942. You checked the records in order to find out that that contribution was made, is that correct?

A Yes, the amount was paid.

Q Now you know that the money was paid to the Reichsgruppe Industry, is that correct?

A I believe it was paid to some account in Berlin, yes.

Q Now did you know that the Reichsgruppe Industry was the top organization of all the so-called voluntary associations in Germany after "The Law on Preparing the Organic Organization of German Economy" was passed by the Nazis on the 16th of February, 1934?

THE PRESIDENT: The Tribunal must intervene here to ask that you permit the witness without being led to tell what he knows about the organization. He is your witness, and this is examination in chief.

MR. SPRECHER: I am sorry. I was trying to save time. It is a decree of which you could take judicial notice. Your Honor.

THE PRESIDENT: Well, it hasn't been called to our attention as such.

MR. SPEECHER: Well, I can't give you the exact citation in the Reichsgesetzblatt, but I can produce that on another occasion. The document is 2067.PS, and--

THE PRESIDENT: Now that is not the matter before the Tribunal. What the Tribunal is suggesting is that it is setting a bad precedent that will waste time instead of conserve time if you ask questions in that form. He is your witness. You have no right to lead him. You may ask him to tell all he knows on any subject that is within the purview of this affidavit.

BY MR. SPEECHER:

Q Witness, do you know that there was a law called "The Law on Preparing the Organic Organization of German Economy"? I will give it in the German: "Gesetz zur Vorbereitung des Organischen Aufbaus der Deutschen Wirtschaft".

A Yes, I know that law.

Q Tell us whether or not that law had anything to do with the Reichsgruppe Industry.

A The law created the economic groups and as the top organization the Reichsgruppe Industry. The Reichsgruppe Industry was the organization above the individual economic groups.

Q Do you know who appointed the head of the Reichs Group Industry?

A As far as I know, they were appointed by the Reich Minister of Economics.

MR. SPEECHER: I have no further questions. Since the question came up and is before you, may I have the privilege of referring you to the document itself since it is already in evidence. It is Prosecution Exhibit 71, NI-100.

THE PRESIDENT: That is the German law that you spoke of?

MR. SPEECHER: Yes, Your Honor. I have no further questions.

THE PRESIDENT: Any further cross examination? There being none, the witness is excused.

MR. SPEECHER: Your Honors, we would now like to go on with the presentation of documents under sub-Section C of Count I. Mrs. Kaufman of the Prosecution staff will present these.

THE PRESIDENT: Would it facilitate your presentation if we take our recess a bit early here? Would you rather have it now and then start after the recess?

MR. SPEECHER: It might make it easier to arrange the documents.

THE PRESIDENT: Very well.

(A recess was taken.)

THE MARSHAL: The Tribunal is again in session.

MR. SPEECHER: Your Honors, in connection with the documents which the Prosecution still will put in in connection with its proof on Count I, and, of course, excluding from that category the documents in Counts II and III which are incorporated by reference in Count I, the Prosecution will introduce affidavits by approximately twelve affiants. In most cases there is only one affidavit by each of those affiants. Mr. DuBois has asked me to make the following request at this time. We would be able to order in such witnesses as are needed for cross examination much better if we could have some kind of an organized procedure for having the entire Defense indicate to us at an early stage -- and, of course, we don't mean immediately upon the introduction of the affidavit -- what their desires are with respect to the later cross examination of those affiants, and if that matter is done rapidly, I think we can do a better job of presenting those affiants before this Court in an orderly way.

THE PRESIDENT: Unfortunately there is not a very large representation of Counsel for the Defense present at this moment,

but the Tribunal will ask those who are present to carry to their brethren this information. After these affidavits are in, the Tribunal will at the beginning of some morning session give notice and fix a time within which it may be advised by Counsel for the defendants as to which of the affiants they desire to have produced for purposes of cross examination. We will give you timely notice on that so none of you will be taken by surprise, but we will do that at some morning session here as soon as the Prosecution reports to the Tribunal that you are ready to have that matter set in motion, and perhaps at a later day we may be able to work out some more efficient method, but for the time being we will try that and give you timely notice and ask you to indicate to the Tribunal within the time fixed whether or not the witnesses are to be produced for cross examination.

You may go ahead.

MR. SPEECHER: Mrs. Kaufman.

MRS. KAUFMAN: The documents the Prosecution will offer at this time are a continuation of those introduced primarily in support of Section G of Count I, and more particularly those sections which relate to the intelligence and espionage activities of I.G. Farben.

The first document which the Prosecution offers at this time appears in Document Book VII. The Prosecution offers as its Exhibit 850 which appears on Page 1 of the English Document Book VII and Page 1 of the German document book. This is an affidavit by Hans Bannert, one of the section heads of VOWI, the research organization within Berlin Northwest 7. Bannert describes the organization and activities of VOWI in this affidavit, and he notes that the VOWI reports were widely circulated and were supplied to any Government agency which displayed an interest in them. At Page 3 of the English and Page 5 of the German, Bannert describes what he calls the close collaboration of VOWI with the military economic and armament staff, and then he states, and I quote -- this is in the middle of the first paragraph

of the English on Page 3. I don't know where it appears on the German document book. This is Page 5 of the German document book.

"We were also asked at this time for pictures and maps of the industrial plant in enemy countries. As we did not possess these, we had to limit ourselves to making photostatic copies from the rarely published drawings and photos in the different technical publications and placing these at the disposal of the Military-Economic and Armaments Staff. I remember that once during the war we were asked to explain, with the aid of an air photograph, the lay-out of the Clifton Magnesium Works in England, in preparation for a bombing attack. We passed on the advice of a gentleman from Bitterfeld, who was familiar with the works lay-out. I know also that, after an air attack on the Billingham Nitrogen Works, we were asked to ascertain the extent of the damage with the aid of an air photograph and I assume with certainty that such technical questions were more often put to the Vermittlungsstelle W than to us."

The Prosecution offers, as its next exhibit, Document NL-8414, which appears on Page 6 of the English document book and Page 9 of the German document book. This document is introduced as Exhibit 851. This document is a memorandum dated September 6, 1938, from the Directors' Section of Northwest 7 to the Platz of the Economics Research Department — that is VOWI — transmitting a distribution list of the VOWI report on East Asia.

DR. BACHEM: (Counsel for the Defendant Ilgner): May I merely point out that this report on East Asia is not a report of the VOWI's but a report by Dr. Ilgner personally, after he concluded his trip. I should merely like to ask the Tribunal to place a question mark after the heading.

THE PRESIDENT: That has been done. Counsel may proceed.

MRS. KAUFMAN: We can see from this document the extensive character of the distribution of VOWI reports to Nazi officials.

The Prosecution offers, as its Exhibit 852, Document NI-5760, which appears on Page 9 of the English and Page 28 of the German. This document consists of excerpts from minutes of the Department Heads' Meeting of Berlin Northwest 7, dated 24 January 1939. May I direct the Tribunal's attention to Items 4 and 5, under the heading "Visitors for Information and Training Purposes," which appears on Page 9 of the English and 29 of the German? I should like to read this to the Tribunal:

"Men sent by other than A.G. offices (official authorities, the organization of the National Socialist Democrat Party abroad, and similar agencies) who are scheduled to travel abroad and desire to obtain information from the Economics Department (the VOWI) on their respective country". And Item 5, which states: "Information given to

Gentlemen on the staff of the Foreign Office, commercial attaches, etc."

It is apparent from these minutes that VOWI was freely used by government agencies and by the foreign organization of the Party.

May I at this time refer to a document appearing in Book 45, which has been introduced as Prosecution Exhibit 8197. It is marked NL-5751, and appears on Page 141 of the English and 200 of the German. This document consists of minutes of the department head of Berlin Northwest 7, dated 7 July 1938. May I direct the Tribunal's attention to Page 141 of the English and Page 200 of the German, to show that at that early date, July 1938, VOWI supplied the Military Economy Office with information.

The next document is introduced for the purpose of showing the kind of information which was needed and used by the Military Economy Office of the OKW for its war program, also the fact that I.G. provided them with that kind of information, and the further fact that the transmittal of information from I.G. to the OKW began even earlier than October 1937.

The Prosecution offers, as its next Exhibit 853, Document NL-9827, which appears on Page 11 of the English document book, and 41 of the German document book. This document is an affidavit by Rudolf Huehnermann of 14 August 1947. Huehnermann was attached to the Military Economy staff of the German High Command from 1936 to 1943 and was in charge of the Military Economy Department from October 1937 until the middle of 1938.

DR. BACHEM: Please excuse me, I must make another correction. The index states, "the cooperation of the Political Economy Department." That is, according to the index, the WIPO. According to the statements of the witness in his affidavit, this

is not correct, however. It should read VOWI, instead of WIPO, since he only speaks about the VOWI in this connection.

MRS. KAUFMAN: I think that correction is well taken, Your Honors.

THE PRESIDENT: Very well.

MRS. KAUFMAN: The Prosecution offers, as its Exhibit 854, Document NI-6359, which appears on Page 13 of the English and 43 of the German. This is a report dated 13 October 1938, prepared by VOWI, to Sparte I of I.G. Farben, listing VOWI's activities for the month of September.

The Prosecution respectfully refers the Tribunal's attention to the considerable number of reports on Czechoslovakia listed in the month of September -- the month of the Munich Conference, which was followed shortly thereafter by the invasion of Czechoslovakia.

The Prosecution offers, as its Exhibit 855, Document NI-7086, which appears on Page 19 of the English and 46 of the German. This document is a report of a VOWI meeting of 16 August 1939, which contains a list of reports prepared by various persons or organizations.

The Prosecution respectfully calls the Tribunal's attention to the character of these reports and the countries they involve.

The next document which appears in Document Book 47, and which is marked NI-6160, has previously been introduced, as Prosecution Exhibit 368. The document appears on Page 24 of the English document book and 51 of the German book. The Tribunal's attention is respectfully referred to the document at this time. It consists of a meeting of the Commercial Committee of 20 August 1940 which was attended by the defendant Schmitz, Schnitzler, Haefliger, von der Heyde, Ilgnor, von Knieriem, Kugler, Mann and ter Meer.

At Page 26 of the English and Page 55 of the German, it will be noted that the Commercial Committee was fully informed of VOWI's activities. I read at Page 26, under the subtitle, "Work of the Economics Department of the I.G. for Official Offices."

"Dr. Reithinger reports. On a suggestion by Herr Mann, it is decided that the members of the Commercial Committee should as far as possible, be kept continually informed of the various subjects under consideration, and that a list of the other tasks should be submitted to the Commercial Committee.

The Prosecution offers, as its Exhibit 856, Document NI-7543, which appears on Page 28 of the English and 58 of the German. This document is a list of VOWI reports found in the files of the Reich Military Economy Office. These were reports concerning the Southeast European countries and were prepared between 1939 and 1940. This document and all other documents containing lists of VOWI reports are submitted for the purpose of showing the extensive character of the information provided to the OKW in these reports, and the undisputed value to the Wehrmacht, both in the planning and waging of aggressive war.

DR. BACHMANN: I must point out another error in the index. From the document itself, on German Page 58, I am sorry to say I don't know the English page number — on Page 28 in the English document book — it can be seen that these documents which the Prosecution is just submitting originate from the files of the Reich Office for Economic Development — but the index speaks of the Reich Military Economic Office. That is incorrect data.

THE PRESIDENT: Is the Prosecution in a position to state whether or not the observation of the Defense is correct?

MRS. KAUFMAN: May I defer such comment until future investigation?

THE PRESIDENT: Certainly. Then the Tribunal will mark it with a question mark.

MRS. KAUFMAN: Thank you. The Prosecution offers, as its Exhibit 857, Document NI 6352, appearing on Page 37 of the English and Page 71 of the German. This document is an affidavit prepared by Franz Rupp, dated 13 March 1947. Rupp was employed in the VOWI from May 1937 until January 1943. He states, at Page 37 of the English and 71 of the German - I read from the item marked Number 1: "I know that the Economics Department, under Dr. Bannert, compiled and drew up location maps of chemical plants in each foreign country. To my knowledge these maps were then submitted to the Wehrmacht High Command and to other authorities." And then I read from Item 2: "I know that under Dr. Reithinger's supervision, I.G. Farben reports on foreign countries were forwarded to the Wehrmacht High Command as well, and that these reports not only comprised the business side of Chemical industry, but, as I discovered afterward, included every point of interest to the Government of the Wehrmacht. The basic material for these reports was partly our own research and statistics, and partly reports we received from abroad and used in our Economics Department."

And then I read from Item C, under 2: "Reports on Africa, Russia, and the Near East were also compiled by us. The last-mentioned reports were compiled after September 1939, but before German military operations were started in Africa and Russia. I also remember that concerning the Near East the Wehrmacht High Command requested us to draw up a report on the existing filling stations in the East. The subjects of

the reports were mainly: conditions of production, transport conditions, the state of roads, conditions of water transportation, the position regarding railroads, and the situation in the armaments industry of that time."

The Prosecution offers, as its Exhibit 858, Document NI-7787, appearing on Page 39 of the English and 75 of the German. This is a letter, dated 20 February 1939, from Reithinger to General Gautier of the Military Economy Office of the OKW in Vienna. I should like to read from Page 39 of the English and 75 of the German:

"Dear General Gautier: With reference to our conference with Dr. Gattineau, in Vienna, may I send you some data which may be of interest to you: " And then there is a list of reports on Southeast Europe, and so on. The concluding paragraph to the letter states: "If you have any questions or particular requests in connection with the enclosures transmitted, our Berlin department, and from the beginning of March Dr. Gross of our branch office in Vienna, will be glad to help you."

The Prosecution offers, as its Exhibit 859, Document 7786, appearing on Page 40 of the English book and Page 76 of the German book. This document consists of a series of correspondence between Gross of Vienna VOWI and Gautier, between April and November 1939, concerning the transmittal of reports and information by VOWI to Gautier. I should like to refer the Tribunal's attention to some of the reports submitted. At Page 40 of the English and 76 of the German, there is a letter dated 25 April 1939 addressed to General Gautier and signed by Gross, which states: "In accordance with your request, I take the liberty of sending you, as a supplement to the Economic Bulletin No. so on and so forth, the Economic Structure and Economic Development in Russia, dated 1936, and the Economic Figures on East Europe, as well as our Handbook of World Economy."

"I hope to be able to obtain for you the documents on Soviet Russia, the Ukraine, and Poland which you requested from Berlin, by the beginning of next week."

The next item appears on Page 41 of the English and 77 of the German, and this is a letter from Gross to General Gautier, dated 13 May 1939, which states: "With reference to my letters dated 25 and 28 April I take the liberty, after having returned from my journey, of sending you an article on the Economic Structure of the Mamel Territory, a report on the Power and Raw Material Resources of the Soviet Ukraine, a report by the Russia Committee of the German Economy on the Raw Material Situation in the USSR (with special reference to war-essential raw materials)."

The next document appears on Page 42 of the English and page 78 of the German -- No, I just read that. I think I just read that document. The next one appears on Page 44 of

the English and 80 of the German. This is an acknowledgment by General Gautier to Gross for a report on Britain's Oil Potential, in which he states: "The resume will be studied by me and the gentlemen of my staff with great interest."

At Page 46 of the English and 83 of the German we have a letter dated 23 August 1939 from Gross to Gautier, in which he states:

"The Raw Material Resources of the Soviet Union --" in which he transmits "The Raw Material Resources of the Soviet Union which might be of interest to you in connection with the latest political developments."

And finally, on Page 49 of the English and 86 of the German, we have a memorandum which was sent to Gautier and signed by Gross, which perhaps will, to some extent, explain I.G.'s eager and willing cooperation. I read from the first paragraph:

"At the instigation of General Gautier, Capt. Bohm and a Markt, who originally belonged to the Military Delegation in Slovakia but are now subordinate to the High Command of the Wehrmacht and roughly fulfill the functions of a Military Economic Inspectorate, visited me on 31 October 1939."

"The gentlemen desired to know details of the plan of the I.G. in Slovakia, and at the time offered their support with the authorities of other offices."

And then I read from the last paragraph: "The difficulties of obtaining authoritative documents concerning the economy in Slovakia were discussed in detail, and the gentlemen complained that they had no comprehensive work on the economy in Slovakia. At the same time they inquired whether we could provide appropriate resumes. Thereupon, I handed the gentlemen a copy of our article No. 3420 by the Economics

Department on 'The Economic Structure of Slovakia.' At present the gentlemen are endeavoring to find out about the production possibilities and the situation in regard to requirements in the various fields of particular interest to them by making individual inquiries at the various enterprises."

The Prosecution offers, as its Exhibit 859, Document --

THE PRESIDENT: Eight-sixty, I believe.

MRS. KAUFMAN: Eight-sixty, I am sorry. Document NI-7493, which appears on Page 51 of the English and 87 of the German. This is a file of weekly reports of the Military Economic Department of the OKW, and indicates how close the cooperation was for the critical six-months period prior to the attack on Poland. The date of the report is from March to September 1939. Although all the items appearing in this exhibit are important, I should like to call the attention of the Tribunal to several items. The report is not set out in the document book in chronological order; however, I should like to make chronological reference to the documents. At Page 61 of the English and 102 of the German, we note an item dated 6-7 March, and this is 1939, which states:

"Discussion with Dr. Fernau of the I.G. Farben, on the English and French oil supplies." And then, at Page 60 of the English and 99 and 100 of the German, we have an item dated 14 April 1939, which states:

"Inception of I.G. Farben study of 'Rumanian Mineral Oil' and 'Greater Germany and the Economic Spheres of the Bohemia-Moravia Protectorate and of Czechoslovakia.'"

And then at Page 62 of the English and 103 and 104 of the German, we have an item dated 30 May, 1939, which states:

"Discussion with Dr. Fernau of I. G. Farben on Germany's oil supplies from Rumania, and submission of the study
Diagrams showing Germany's commercial development and its most important European competitors in Central and Southeast Europe since the end of the War".

And then an item which is 105 of the German document book, and is at the bottom of Page 62 of the English book, dated 14 June 1939, dated 30 May, 1939, we have:

"Discussion with Dr. Fernau of I. G. Farben, submission of the essay on Cyprus and discussion on the utilization and exploitation of the I. G. Farben records and library. In accordance with Fernau's statement, the records and library are at the disposal of the Rohrwirtschaftsstab at any time."

That is the Military Economy staff.

Then we have an item appearing on Page 55 of the English, and 98 and 99 of the German, and from this item we see that it was not only a service offered to the Rohrwirtschaftsstab. It is dated 22 June, 1939.

(page 78 of original)

22 June: Discussion with Dr. Fernau of I. G. Farben on the envisaged extension of the records and library of the above-named firm. In accordance with Dr. Fernau's information, the records and library of I. G. Farben were made use of to the fullest extent by the Reich authorities. Thus Reich Minister of Economics Funk has had a study of the situation in Holland drawn up for him by the I. G. Farben for his projected journey to Holland.

Then at Page 55 of the English, and 91 of the German we have an item under the date of 24 August 1939:

"Discussion with Dr. Fernau of the I. G. Farbenindustrie Aktiengesellschaft, Berlin, on extension of cooperation with the Economics Department of the I. G. Farbenindustrie Aktiengesellschaft.

"Discussion with the Leader of the Economics Department of the I. G. Farbenindustrie Aktiengesellschaft, Doctor Reithinger, as well as Doctors Juhn and Fernau of the I.G., on the closer cooperation envisaged.

"The I.G. made all their archives and printed material available for exploitation and furthermore declared themselves prepared to answer questions put to them, which must be kept as brief and concise as possible.

"Written questions are to be sent through the Office of Military Economy Group VIII to the office controlling the scope of the I.G.'s activities."

Finally, at Page 53 of the English and 86 of the German, -- may I refer back to Page 55 of the English and 91 of the German to the last paragraph of the English appearing on Page 55, which states:-

"Discussion with von der Heyde, Commissioner for Abwehr of the I. G. Farbenindustrie Aktiengesellschaft, Berlin, on the sphere of activities of Dr. Krueger, Betriebsfuhrer of the I. G. Farbenindustrie Aktiengesellschaft, Berlin, who came to the Wehrwirtschaftsstab for the reinforcement of mobilization".

DR. GIERLICH (for the Defendant Schmitz:)

Your Honors, I merely want to point out for the record that according to my opinion, there is a translation mistake or rather a lack of clarity in the translation of the last quotations, which may be of importance in its effects because the German word "Archiv" is translated as "records" in the English, but according to my personal opinion, it should be translated as "archives". I should like to point this out now

since the word "Archiv" is a special expression used in the VowI, for the documents of a statistical and other nature which were collected by VowI, and which has nothing to do with business correspondence, etc. I know that we cannot express an opinion on this matter at the moment, but I should like to state my opinion for the record, and come back to it later.

MR. AMMAN: If Your Honors please, questions of differences in translation we think can more appropriately be dealt with in conference, and should not take up the formal proceedings of the court, and we would be glad to confer with defense counsel on any particular matters which they feel are incorrectly translated.

On other aspects of the documents, if there is a difference of interpretation, I suggest that it is proper for them to bring them in in their case, and this is not an objection at this time, as to the admissibility of the document.

THE PRESIDENT: The Tribunal will appreciate the cooperation of counsel in an effort to find a translation of the parts in dispute upon which they can agree. Of course, if they cannot agree, the defense will be afforded an opportunity to make a showing as to what the translation should be.

MRS. KAUFMAN: I should like to refer to one last item of Document III 7193, which appears on Page 53 of the English and 88 of the German. This took place the day following the discussions noted in the last item reported to the Tribunal. This is a discussion at the office of the Military Economy Group VIII:

"Captain Dose, Dr. Holzhauer, with Dr. Reithinger, Dr. John, Dr. Fornau's suggestion of using the Economics Department, together with the archives, of the I. G. Farbenindustrie for the Wehrwirtschaftsstab purposes was accepted by Captain Dose. A request for brief description of Poland's situation with regard to raw material stocks and a description of the

Reich's increased security against blockade through the Berlin-Moscow non-aggression pact. Descriptions are provided."

This took place on the 25th day of August, 1939.

The Prosecution offers, as its Exhibit 861, Document MI 8619, appearing on Page 65 of the English and 100 of the German; this document is a memorandum dated 31 August 1939, one day before the attack on Poland. The memorandum is from the Military Economy office to its various subdivisions, which states, and I read at Page 65 of the English, 106 of the German:

"Subject: I. G. Farbenindustrie Aktiengesellschaft, Berlin

"An agreement has been reached with the Economics Department of I. G. Farbenindustrie Aktiengesellschaft, Berlin, to the effect that the above-named Department is to make available all its records for the use of the Military Economy Staff.

"In addition, the Economics Department has stated that it is prepared to furnish full information as quickly as possible in reply to brief and clearly-worded enquiries.

"Verbal enquiries should be addressed to Dr. FROHDE.

"Written enquiries should be forwarded to Group VIII for dispatch."

The Prosecution offers, as its Exhibit 862, Document MI 7791, appearing on Page 66 of the English and 107 of the German. This consists of two letters from Gautier to Cross, dated 30 August 1939 and 16 September 1939, acknowledging and expressing gratitude for the report called, "The Most Important Chemical Firms in Poland," which Vowd supplied to Gautier.

The letter dated 30 August 1939, appearing on Page 67 of the English and 108 of the German, states:

"Dear Dr. Gross:

"I acknowledge herewith the receipt of the interesting work,
"The Most Important Chemical Firms in Poland", for which I
thank you very much. It will be read by the members of my
staff, and full use will be made of it."

The Prosecution offers as its Exhibit 363, Document NI 7790, which
appears on Page 68 of the English and 159 of the German. This is a letter
dated 20 December 1939, from Gaudier to Gross, acknowledging receipt of
a strictly confidential report on impressions of a journey across Soviet
Russia, which Gross sent to General Gaudier.

The Prosecution offers as its Exhibit 364, Document NI 7797 which
appears on Page 69 of the English, and 160 of the German. This is a
confidential report prepared by WAMI and found in the files of the
Military Economic Division of the OKW, which is concerned with the
production of various chemicals in the United States, Japan, Great
Britain, and Italy, for the years 1922 through 1939.

The document, appearing in the English document contains only the
title of this report, since the purpose of this exhibit is merely to
show the Tribunal the character of the information supplied to the
Wehrmacht by I. G.

The Prosecution offers, as its Exhibit 365, Document NI 7981, which
appears on Page 70 of the English and 160 of the German.

MR. BACHEM: Your Honors, may I point out that even from the document
submitted to the Secretary General and from the certificate one cannot
see where these documents were found, but the index states that they
were found in the files of the Military Economic Division.

MRS. KAUFMAN: The documents were all submitted with affidavits containing information concerning their source, and the affidavits or certificates attached to these documents stated the source as indicated in the index. If they do not appear in the document offered to the Tribunal, I do believe that the Prosecution can, if the Tribunal so desires, provide the certificates.

THE PRESIDENT: The Tribunal ordinarily is not interested in those certificates. However, when a question arises, it might be pertinent to inquire, is there a certificate pertaining to this document in the official exhibit filed with the Secretary General?

MRS. KAUFMAN: As far as my information is concerned, at this point I would state that there is such a certificate. However, if the Tribunal so desires, I can verify that statement.

THE PRESIDENT: Do you have the file there?

MR. ALCHAN: We have it here, if Your Honors please. It's the usual certificate.

THE PRESIDENT: May we see it? That will settle the question quicker.

The document in the official file appears to carry with it the usual certificate reciting that this is a document found in German archives, records, and files, captured by military forces under the command of the Supreme Commander of the Allied Expeditionary Forces. Unless that's challenged, that certificate will be deemed to be prima facie sufficient. We have had that question before, and while it would not be conclusive if the fact was disputed, the burden would be on the one making the challenge to establish the contrary and, on the showing made, the objection will be overruled.

DR. BACHEM: Your Honors, as far as I understood this

document, one cannot see from it unequivocally that this document really was found in the files of the German military authorities, and since the Prosecution does indicate in the index that it was found in such agencies, I should think they should prove their contention.

THE PRESIDENT: They are not required to offer any proof as to the index. That's merely their conception of a convenient guide for the use of the Tribunal. However, as we have indicated before, we do not want to be misled by an erroneous index, and with reference to that matter which Counsel has just now mentioned, we shall be glad to note that there is a question about whether or not the index properly reflects the facts pertaining to the exhibit.

Now, in order that there may be no confusion, I take it that Counsel is now speaking of Exhibit 865, or is it 864?

MRS. KAUFMAN: 864.

DR. BACHMANN: 864. Yes, Your Honors.

THE PRESIDENT: Then the members of the Tribunal will put a question mark after the index description. As we said before, we do not regard the index as having any probative value whatever. It's merely a convenient way of us identifying the document and in a general way its subject matter. However, we would not want to be misled by a misstatement of fact, and where Counsel thinks the index does not reflect the facts, if you call it to our attention, we will put a question mark by it and afford you an opportunity to make a showing, unless you can agree with Counsel for the Prosecution as to what the index should be.

DR. BACHMANN: In this case, I shall again speak with the Prosecution and try to have the index rectified.

THE PRESIDENT: If you do, call it to our attention and we will make a note of it, and if you cannot agree with Counsel, at the proper time you may make a showing as to what you think the fact is pertaining to the matter.

MRS. KAUFMAN: The Prosecution offers, as its Exhibit 865, Document NI-7801, which appears on Page 70 of the English and Page 140 of the German. This is a letter from Wegmann and I should like to note that Defense Counsel pointed out an inaccuracy in the index to me at this moment. The word Wegmann should be changed to Wegmann. This is a letter from Wegmann of the NW 7 Office of VOWI to Gross in which Wegmann, on 21 December 1939, requests information for a survey that VOWI intended to make of the communication and transportation facilities in the South East European countries.

The Prosecution offers, as its Exhibit 866, the document marked NI-6162, which appears on Page 71 of the English and Page 141 of the German. This is a report of a meeting of the Commercial Committee of 12 November 1940 at which the Defendant von Schnitzler presided. The Defendants Schmitz, Haefliger, von der Heyde, Ligner, von Kriem, Kugler, Mann, Ter Meer, and Oster were present. It appears from this report that the Commercial Committee was fully informed of the orders prepared by VOWI for the various Government and military offices, and I read on Page 72 of the English and 142 of the German:

"In this connection Dr. von Schnitzler read out a list of the work recently prepared by the National Economics Department for various government and military offices. During the discussion following this, the Commercial Committee repeated its wish that the National Economics Department should prepare this work in close cooperation

with the sales combines and other IG offices concerned."

The next document appearing in Document Book 47, which is marked 7850, has been introduced as Prosecution's Exhibit 657. It appears on Page 74 of the English document book and 144 of the German document book. It is a secret VOWI report dated 2 March 1940, which was found in the files of the Military Economy Office, which discusses the technology of explosives and chemical warfare agents and estimates the Western Powers' potentials with respect to the various chemicals.

The Prosecution offers, as its Exhibit 867, Document NI-9959 - that is Document 9959. It appears on Page 78 of the English and 150 of the German. This is a letter of 14 May 1940 from VOWI to the Military Economy and Armament Office of the High Command of the Wehrmacht. I read from Page 78 of the English and 150 of the German:

"Re: Construction of calcium carbide plant in Great Britain.

"Referring to our previous discussions on the question of carbide supply for Great Britain, as well as on the establishment of a carbide industry of our own, we should like to inform you of the following article published in the Financial News of 16 April 1940."

And then the last paragraph states:

"According to these statements, it appears that, contrary to previous reports, the construction of carbide plants in Great Britain has not yet been started."

And this is signed by Bannert of the Economics Department of NW 7.

The Prosecution offers, as its Exhibit 868, Document NI-7976, which appears on Page 79 of the English and 152 of the German. This document consists of minutes of a VOWI meeting by the department heads of VOWI on 25 January

1943. I read from Paragraph 3, appearing on the first page of the document. That is 79 of the English and 152 of the German. I am reading Item 2 under Paragraph 3:

"Work Done on Russia

"The studies of the production possibilities in regard to military-economic important chemical products in unoccupied territories in Russia will be concluded in the course of the next few weeks. The High Command of the Armed Forces also requests study of the situation in regard to metal in unoccupied Russia, and a comment on the Russian food situation."

The Prosecution offers, as its Exhibit S63, the document marked NI-7794, appearing on Page 80 of the English and 154 of the German. This document consists of letters from VOWI to the OKW. One, appearing on Page 81 of the English and Page 155 and 156 of the German, which is dated 18 May 1944, is concerned with the preparation of chemical warfare agents by the enemy powers I read from Page 81 of the English. That's at the bottom of Page 81 of the English and it's Page 156 of the German:

"Subject: Preparation of chemical warfare agents by the enemy powers.

"As we informed you on the occasion of our last visit, we were asked by the Reich Ministry for Armaments and War Production to furnish a report on the preparations of enemy powers in the sphere of chemical warfare agents. We enclose one copy of our opinion for your information."

There's a letter appearing on Page 82 of the English and 158 of the German, dated 30 June 1944, which states at the bottom of the English page:

"We enclose two more copies of our summary, after mimeographing, "Location and Capacity of the World's Magnesium Works", hoping that you will find them of use."

At Page 80 of the English and 155 of the German -- no, we go on to 154 of the German -- is a letter dated 5 September 1944 which states:

"Further to our letter of 28 August 1944 we send you two maps enclosed: 'Location and Capacity of the Synthetic Rubber Plants in North American and Canada.'"

At Page 83 of the English and 159 of the German we find an item under the date of 14 September 1944 which relates to the subject magnesium:

"Further to our letter of 11 August and 28 August, we enclose two copies of the location maps to our magnesium summary Economics Office 5038."

The Prosecution offers, as its Exhibit 870, Document NI-7857, which appears on Page 86 of the English and 162 of the German. This document consists of a letter of 16 October 1944 to the OKW from VOWI, transmitting the comments on an OKW report on the production capacity of ammonium nitrate in the United States and the use of ammonium nitrate as an explosive and the production of explosives in Russia.

The Prosecution offers, as its Exhibit 871, Document 7978, which appears on Page 88 of the English and 163 of the German. This is a secret list of VOWI reports prepared by VOWI for the OKW since 13 November 1939.

The Prosecution would like to refer to Document Book XVII at this time, in which appears Prosecution's Exhibit 377. This is an affidavit executed by the Defendant Ilgner, marked NI-6654. The Court will recall that in discussing the sources of information utilized by the VOWI, Ilgner in his affidavit NI-6654 stated the VOWI maintained a collaborator's relationship with the statistical department of Chemnyco, which transmitted to VOWI statistics and other material pertaining to the political economy published in the United States.

The next series of documents relate to Chemnyco, its relations to I. G. Farben, and the services performed by it for Farben and the Third Reich.

The prosecution offers, as its Exhibit 872, Document NI-7581, which appears on Page 92 of the English and Page 168 of the German. This is an agreement between the U. S. and Trans-Atlantic Service Corporation, whose name was later changed to Chemnyco, and I. G. Farben, which provides in substance that the Service Corporation would act as the U. S. representative of I. G. Farben in all business, commercial, patent, and tax matters and that it would investigate and report in detail on all existing and prospective American industries in which I. G. Farben was interested. The Service Corporation also agreed to receive officers, employees, or special representatives of I. G. Farben, obtain hotel and travel accommodations for such visitors, facilitate their introduction to American financiers, industrialists, merchants and others, and aid and assist these visitors in the accomplishment of their visits. For these services I. G. agreed to pay the U. S. Trans-Atlantic Service Corporation the sum of \$84,000 annually plus charges for all special services. As the record will show, this sum was increased to \$240,000 in 1938.

The Prosecution offers, as its Exhibit 873, Document NI-11198, appearing on 101 of the English and 179 of the German. This document is an I. G. Farben file memorandum of 20 April 1931, in which it is noted that the name "U. S. and Trans-Atlantic Service Corporation" was changed to "Chemnyco".

DR. BACHM:

Please note in the index that it should read 20 April 1931 and not 20 April 1911, as can be seen from the document.

MRS. KAUFMAN: The correction is properly taken, Your Honor.

THE PRESIDENT: Very well.

MR. KAUFMAN: The Prosecution offers, as its Exhibit 874, Document NI-11108, which appears on Page 102 of the English and 180 of the German. This is a certification by the United States Department of Justice that a confidential report entitled, "American Economic Intelligence Activities of I. G. Farben-Industrie, Chemnyco, Inc." was prepared by the Department of Justice.

The Prosecution offers, as its Exhibit 875, Document NI-10577, which appears on Page 103 of the English and 181 of the German. This is an official report prepared by the Economic Warfare Section of the Department of Justice. This report is entitled, "American Economic Intelligence Activities of I. G. Farben Industrie, Chemnyco, Inc." dated August 10, 1944. Although the entire report will be of interest to the Tribunal, in connection with the history of the organization, the nature of the personnel, and the character of the service performed, I should like to direct the Tribunal's attention to Page 103 of the English and Page 181 of the German, which discusses the origin and formation of Chemnyco. I read from Page 103:

"The simplicity, efficiency, and totality of German methods of gathering economic intelligence data are exemplified by Chemnyco, Inc., the American intelligence arm of I. G. Farbenindustrie. Chemnyco is an excellent example of the uses to which a country with a war economy may put an ordinary commercial enterprise."

At Page 104 and 182 of the German, I read from the top of the Page 104:

"In planning for the total war it had decided to wage, Germany needed more information than could be obtained through the conventional invisible-ink methods of espionage. What Germany needed to know were the economic facts and figures, the sum total of which make up the economic life of America."

And then the next paragraph:

"In 1928, I. G. Farben established in the United States what was first conceived of as a 'Committee on Political Economics', but very soon became a large-scale incorporated business enterprise, whose function it was to 'furnish information regarding financial and industrial conditions in the United States.' This organization, which became Chemnyco, Inc., in 1931, was set up by Max Ilgner, soon to become I. G. Farben's official link and paymaster to the Nazi hierarchy. Ilgner came to the

U. S. for this purpose and, upon his return to Germany, left his brother Rudolf as his deputy in the U. S. Chemnyco operated until the United States entered the war against Germany. It was supplied by its parent with ample funds and with highly skilled personnel having rich technical backgrounds. Ownership of Chemnyco, though never in the name of I. G. Farben, was always tightly controlled by selected representatives of that company."

May I also refer the Tribunal's attention to Page 107 of the English and Page 185 of the German, which states that in 1928, after a series of discussions between a Mr. Almut Vandiver, an American attorney who assisted in the formation of the American I. G. Chemical Corporation, and the defendants Schnitzler, von Krieger, Schmitz, Haefliger, and a Dr. Wilfrid Grief, who was the nominal founder of Chemnyco, I. G. decided to organize an American unit to serve as an information agency for I. G. Farben's department of commerce and economics, and that the Defendant Max Ilgner came to the United States to assist in the organization of the work of this unit, which was called the "Committee on Political Economics." With respect to the ownership of Chemnyco and the character of the personnel and officials attached to that outfit, the report states at Page 124 and 125 of the English and Page 200 of the German, and I read under item designated "Roman Numeral IV, "Ownership of Chemnyco", which appears at the bottom of the English text:

"Characteristically, no part of the stock of Chemnyco was at any time owned by I. G. Farbenindustrie. Until 1939 the outstanding stock (250 shares) was owned by Chemnyco officers and directors.

"Though never actually owned by I. G. Farbenindustrie, Chemnyco was an enterprise operated by a close I. G. inner family circle. The following chart of Chemnyco's principal officers and employees, prepared by Chemnyco itself, shows clearly that every important member of the company was installed in office by I. G. Farbenindustrie."

The Tribunal will find the chart which contains the principal officers and employees of the Chemnyco and their connection with I. G. Farben following this comment.

If it please the Tribunal, I should like to call attention to one further item appearing in this exhibit at Page 107 of the English and 185 of the German. In the course of an investigation by the Department of Justice, Rudolf Ilgner, vice-president of Chemnyco, ordered the

destruction of a considerable part of the files, as a result of which action he was indicted for obstruction of justice. Ilgnor pleaded guilty to the charge and was fined \$1000.

The Prosecution offers, as its Exhibit 876, Document 10418, which appears on Page 128 of the English and 204 of the German. This document consists of excerpts from the list of publications to which Chennycos subscribed and which were circulated to VCFI and to other offices of I. G. as appear on Page 140 of the exhibit. This subscription list is discussed in a preceding exhibit. This concludes the documents of Book XXXVII.

JUDGE PERRET: Counsel, I have one question to ask. I note in this series of documents, that -- particularly 870, 871 and -- well, those two, 870 and 871 -- that the Prosecution is seeking to show intelligence activities as late as October of 1944 and early in 1944. Is it the position of the Prosecution that these activities constitute the waging of aggressive war though they occurred that late in the War?

MRS. KAUFMAN: I believe Your Honor has accurately stated the position of the Prosecution. The crimes with which the defendants are charged consist of the planning and waging of aggressive war, and the information -- the documents which date during the course of the war relate to both the planning of the further conduct of the war and the waging of the war.

THE PRESIDENT: Does the Prosecution have any announcement to make?

MR. SPRECHER: Yes, Mr. President. We will continue tomorrow with the materials on Section C, Count I, and there are four affiants whom the Defense desires to cross examine who will be called thereafter unless some further arrangement can be made. In that connection I have just talked to Dr. Nalto, and I understand that, with respect to the affiant Schrader, we may be able to handle it by an informal settlement which will take care of his requirements, but in any event, I thought I would mention these four witnesses so we can have the books in: Dieckmann, Gritzbach, Paulmann and Schrader.

There is nothing further.

THE PRESIDENT: Let me understand, You intend to call these witnesses tomorrow first?

MR. SPRECHER: No. No, Your Honor. We were planning on finishing with the —

THE PRESIDENT: Finishing with the documents first.

MR. SPRECHER: — documents first.

THE PRESIDENT: All right. Then we will continue with those books XLV, XLVI, XLVII, and XLVIII.

MR. SPRECHER: Yes.

THE PRESIDENT: Thank you, XLV, XLVI, and XLVIII it would be now, would it not?

MR. SPRECHER: Mrs. Kaufman just points out to me that it may be necessary to make some references to materials previously indicated and that we would be on the safe side if we had XLIV through XLIX as well as XVI and XVII, since some of the statements of Ilgner and Schnitzler come into play.

THE PRESIDENT: Now let me check that because it is some confusion in our offices to get these records in here. We should then have Books XVI and XVII, XLIV, XLV, XLVI, XLVII, and XLVIII, is that correct; We have just finished with XLVII.

MR. SPRECHER: That is right, Your Honor.

THE PRESIDENT: Very well. Thank you.

Any further announcement? If not, the Tribunal will be in recess until nine-thirty in the morning.

THE MARSHAL: The Tribunal will be in recess until nine-thirty o'clock tomorrow morning.

(The Tribunal adjourned until 0930 hours, 15 October 1947.)

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